

IMAGED

IN THE COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO

2009 MAY -8 PM 1:11

STATE OF OHIO,

Plaintiff,

COURT CLERK  
BUTLER COUNTY  
CLERK OF COURTS

Case No. CR 1983-12-0614

vs.

:

:

VON CLARK DAVIS

:

Judge Nastoff

Defendant.

:

---

DEFENDANT'S MOTION IN LIMINE

---

**NOW COMES** Defendant, by and through his undersigned counsel, and, who files a Motion in Limine as to evidence the Prosecutor may be intending to introduce in the instant case which is set for a Mitigation Hearing Trial beginning May 11, 2009. Specifically, the defense requests an Order directing that the State of Ohio shall not be allowed to introduce additional evidence and will not be allowed to introduce evidence beyond the fact and document which is the Defendant's Judgment Conviction Entry from the 1971 conviction for the prior purposeful murder which occurred in 1970. The only capital specification in this case is that prior purposeful murder.

In the past couple of weeks, the Prosecutor has filed Supplemental Discovery listing documents and evidence. Furthermore, as to one piece of supplemental discovery, the Prosecutor contacted undersigned counsel to determine if she would stipulate to the Coroner's Records or whether the defense would require the State to bring in a witness from the Coroner's office. Defense Counsel Porter returned their call and was advised that they State was seeking this stipulation as to the 1970 murder records which would be coming in from the Coroner's Office. Obviously, undersigned counsel's responded that we would not stipulate to new evidence being presented at our client's Mitigation Trial. In addition, the Prosecutor has listed witnesses in its discovery which appear to pertain solely to evidence pertaining to the 1970 prior murder, Case number 21655, Butler County Ohio Common Pleas, such as listing Butler County Commissioner Charles "Chuck" Furmon, the lead Detective in the 1970 case, as a witness and a Coroner's diagram and an amended diagram of the victim in the 1971 conviction.

Based upon that conversation had with the Prosecutor and the continued Supplemental Discovery content from the State of Ohio, the defendant through counsel



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(292)

hereby formally motions this Court for an order limiting the Prosecutor as to evidence of the prior 1971 Murder conviction that can be presented at this Mitigation Trial. The Defense asks that specifically, the Court order that the State of Ohio only be allowed to submit the Judgment Conviction entry and not additional evidence which would result in an unconstitutional trial.

The defense points to the case of Rocky Barton, convicted in Warren County Common Pleas in which the Aggravating Circumstance was the prior purposeful killing. In that case, the State of Ohio submitted as evidence, Exhibit 17 Final Judgment from Kentucky and Exhibit 18, Indictment and Plea Kentucky. In the Mitigation Phase, the State of Ohio moved for admission of these exhibits. The exhibits were admitted into evidence. The State of Ohio put on no additional witnesses or testimony and rested with the sole admission of these two exhibits. (See State of Ohio v. Rocky Barton 03CR20526, Trial Transcript, pp. 1345-1346, and Index of Exhibits) (**Attachment 1**). The State's case took all of 4 lines of transcript.

Further, the Defense incorporates by reference all legal and factual arguments made in its April 6, 2009 filing titled *Von Clark Davis' Memorandum Contra to the State's Motion in Limine*, wherein the defense continues to object to the introduction of new evidence including the court's proposed review of the Trial Transcript.

The specification in the Defendant's case is a status offense. It has already been proven to the first 3 judge panel by proof beyond a reasonable doubt. In fact, in the instant case, even before the Defendant waived a right to a jury trial in the case on May 8, 1984, he had appeared before Judge Brewer four days before on May 4, 1984 and personally and in writing elected to have the three judge panel decide the existence of the Aggravating Circumstance as to the prior offense. (Transcript of Motions, pp. 56-58 May 4, 1984) (**Attachment 2**). The State does not get another bite at the apple to add additional evidence. Even if it did, the law in the matter is clear, improperly interjecting non-statutory aggravating circumstances is error. State v. Combs (1991), 62 Ohio St.3d 278, 283.

This is akin to a case where a prior offense elevates the offense level to a higher degree misdemeanor of felony. In a Trial for a charge for OVI with a prior offense, all the prosecutor is allowed to prove is the defendant has in fact been convicted of a prior OVI offense – not the underlying facts of that prior charge such as how drunk was he, did he have an accident, or any other fact related to the charge. In a Trial for a charge of Failure to provide a change of address for as a sex offender, the prosecutor is allowed only to prove a prior conviction for an offense which would require registration – not the underlying facts of the offense. The same can be said for Domestic Violence with priors, Driving Under Suspensions with priors, Non Support of Dependents Felony Four offenses.

The State of Ohio has already proven the existence of the Aggravating Circumstance. The State of Ohio need prove nothing more. The Defendant has a prior conviction for a murder in 1971. That conviction, alone, is the Aggravating Circumstance in this case. The facts in that prior conviction, including testimony and evidence as the 1970 murder or investigation of that murder itself is inadmissible in the instant Mitigation Trial.



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### **1. Non Statutory Aggravating Circumstances**

It is the defense's position that introduction of any additional evidence as to the 1970 murder (1971 conviction) would be an introduction of non-statutory aggravating circumstances resulting in an unconstitutional Trial. Workman v. Bell, 160 F.3d 276 (6<sup>th</sup> Cir. 1993).

Just as the 1983 murder in this case and the nature and circumstances of that offense are not and can not be Aggravating Circumstances, neither can the facts constituting the prior 1971 murder conviction be an Aggravating Circumstance.

### **2. Irrelevant Evidence Rule 402**

Secondly, introduction of evidence from witnesses as to the 1971 prior murder conviction would be introduction of evidence which is irrelevant under Evidence Rule 402.

### **3. Inadmissible under Evidence Rule 403**

Third, even if the State gets beyond Rule 402 as to relevancy, the probative value of such evidence is substantially outweighed by the danger of unfair prejudice, confusion of the issues, and misleading the three judge panel.

### **4. Inadmissible under Evidence Rule 404**

Fourth, admission of evidence beyond the conviction entry from the 1971 conviction would be violation of Evidence Rule 404(a) and (b). This evidence has no place in a Mitigation Trial where the trier of fact has one job to do.

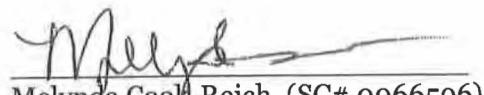
This further would appear that the State would be seeking to compare and contrast the 1971 conviction underlying facts with the 1984 conviction underlying facts. This again would be violation of the Defendant's constitutional rights as the Aggravated Murder is not an Aggravating circumstance and therefore, it would be another attempt to introduce a non-statutory aggravating circumstance.

**WHEREFORE**, the Defendant requests an order limiting the State of Ohio to admission of evidence at the Mitigation Trial to only the Statutory Aggravating Circumstance. Admission of any other evidence would result in an unconstitutional Trial. The Defense incorporates by reference all legal and factual arguments made in its April 6, 2009 filing titled *Von Clark Davis' Memorandum Contra to the State's Motion in Limine*, wherein the defense continues to object to the introduction of new evidence including the court's proposed review of the Trial Transcript.



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Respectfully submitted,



Melynda Cook-Reich (SC# 0066596)  
REPPER, PAGAN, COOK  
Attorney for Defendant  
1501 First Avenue  
Middletown, OH 45044  
(513) 424-1823; Fax (513)424-3135

and

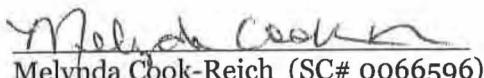


Randall Porter (SC#0005835)  
Assistant State Public Defender  
Office of the Ohio Public Defender  
250 East Broad Street, Suite 1400  
Columbus, Ohio 43215  
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(614) 644-0703 (Facsimile)  
[PorterR@OPD.state.OH.US](mailto:PorterR@OPD.state.OH.US)

COUNSEL FOR VON CLARK DAVIS

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was delivered via hand delivery to Daniel G. Eichel, First Assistant Butler County Prosecuting Attorney, and Michael A. Oster, Jr. Assistant Butler County Prosecuting Attorney by sending via (513) 887-3489 facsimile to the Office of the Butler County Prosecuting Attorney, 11<sup>th</sup> Floor, 315 High Street, Hamilton, Ohio 45011 and will also be hand delivered to the listed prosecutors in court at the 1:30 hearing scheduled on this day May 8th 2009.



Melynda Cook-Reich (SC# 0066596)



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Cook, Ltd.  
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- Attachment 1

STATE OF OHIO, WARREN COUNTY  
IN THE COURT OF COMMON PLEAS  
CASE NO. 03CR20526

STATE OF OHIO,

ROCKY BARTON,

- vs -

Plaintiff,

Defendant.

TRANSCRIPT OF PROCEEDINGS

Vol. VII of VII

PP 1332-1392

(part 1 of 2)

I N D E X

<u>State's Exhibits:</u>	<u>Marked for Identification</u>	<u>Identified</u>	<u>Objection</u>	<u>Admitted</u>	<u>Rejected/Not Offered</u>
1 - Shotgun	683	880	--	1205	--
2 - Spent shotgun shell	683	1101	--	1205	--
3 - Spent shotgun shell	683	1099	--	1205	--
4 - Spent shotgun shell	684	1098	--	1205	--
5 - Five unspent shotgun shells	684	1101	--	1205	--
6 - Unspent shotgun shell	684	1102	--	1205	--
7 - Spent shotgun shell	684	1100	--	1205	--
8 - Cordless telephone	684	1118	--	1205	--
9 - Cell phone	684	1106	--	1205	--
10 - Brown jacket	684	1120	--	1205	--
11 - Blue smock and shirt	684	1122	--	1205	--
12 - NONE					
13 - Microcassette tape of telephone message	685	905	--	1205	--
14 - Transcript of telephone message	685	905	--	1205	--
15 - NONE					
16 - Photograph	685	733	--	732	--
17 - Final Judgment from Kentucky Mitigation Phase Only	685	1172	1346	1174	--
18 - Indictment and Plea Kentucky Mitigation Phase Only	685	1172	1346	1174	--
19 - Photograph	685	--	--	--	Not Offered
20 - Photograph	685	--	--	--	Not Offered
21 - Photograph	686	--	--	--	Not Offered
22 - Photograph	686	--	--	--	Not Offered
23 - Cell phone log	686	1107	--	1205	--
24 - Miami Valley Regional Crime Lab report	686	1151	--	--	Rejected
25 - Coronar's autopsy report	686	--	--	--	Not Offered
26 - Photograph	686	733	--	732	--
27 - Photograph	686	737	--	732	--
28 - Photograph	686	738	--	732	--
29 - Photograph	687	739	--	732	--
30 - Photograph	687	740	--	732	--

1345

1 ladies and gentlemen, is a parade of  
2 witnesses that are going to come in  
3 here on behalf of Mr. Barton and tell  
4 you about him and tell you about his  
5 background and tell you about his  
6 family.

7 The only witness you're going  
8 to hear from today is Mr. Barton  
9 himself. Mr. Barton will take the  
10 witness stand. And I, to be very frank  
11 with you, ladies and gentlemen, I have  
12 no idea what Mr. Barton is going to  
13 tell you because he has not told me, he  
14 has not told Mr. Oda. So you will be  
15 hearing for the first time, just as we  
16 will, what he has to tell you.

17 And the only thing that I would  
18 ask you to do is do what you have done  
19 throughout these entire proceedings -  
20 be attentive, pay attention to what he  
21 has to say, and take what he has to say  
22 into consideration in your  
23 deliberations in this case. Thank you.

24 THE COURT: Thank you, Mr.

1346

1 Howard.

2 Mr. Sievers, your evidence?

3 MR. SIEVERS: Your Honor, the  
4 State would move for admission of  
5 State's Exhibit 17 and State's Exhibit  
6 18.

7 THE COURT: Counsel?

8 MR. HOWARD: Just renewing  
9 our objection previously, Judge.

10 THE COURT: Okay. State's  
11 Exhibits 17 and 18, which were admitted  
12 in the trial phase, however not  
13 previously submitted to the jury,  
14 submitted only to the court, will be  
15 accepted into evidence.

16 Does defense wish to present  
17 any evidence?

18 MR. HOWARD: We have no  
19 evidence, Your Honor, we do have Mr.  
20 Barton who would like to make a  
21 statement to the jury.

22 THE COURT: Mr. Barton, if  
23 you would take the witness stand. We  
24 will not place you under oath, you're

**COPY**

Attachment 2-

STATE OF OHIO : State of Ohio, Butler County  
Plaintiff : Court of Common Pleas  
vs. : Case No. CR83-02-0614  
VON CLARK DAVIS : TRANSCRIPT OF MOTIONS  
Defendant :  
: : : : : SEP 17 1984  
BRUEWER, J.

APPEARANCES:

MICHAEL SAGE and DANIEL G. EICHEL, Assistant Prosecuting Attorneys, for the State of Ohio.

MICHAEL SHANKS AND JOHN A. GARRETSON, Attorneys at Law, for the Defendant, Von Clark Davis.

\* \* \* \* \*

BE IT REMEMBERED, that at the September Term A.D., 1984, of the Court of Common Pleas, Butler County, Ohio, to wit: February 15, 1984, the Honorable Henry J. Bruewer, Judge presiding, this cause came on to be heard upon the motions filed in this case.

SEP 17 1984

By the Court: Yes, we want to formalize it.

Mr. Garretson: Oh, I understand.

I'm going to be here on the Gill case Friday Morning ah, after that would be alright.

Mr. Shanks: Can we come to Court Friday, as close to ten o'clock as possible...we have other...I have to be in Fairfield..

By the Court: Is that alright with your client?

Mr. Garretson: Can you be here Friday?

Mr. Shanks: We can make arrangements...he is (unclear)...

By the Court: Why don't we see if we can get that together and I'll help you with it...if you think...but basically just to...

Mr. Eichel: It'll look like just a jury waiver.

By the Court: Alright, we'll do it sometime say after ten o'clock Friday, somebody can be here, ah, whoever....

Okay, is that sufficient for this hearing this morning... okay. That's all.

AND THEREUPON, on the 4th day of May, 1984, the following Election of Jury, was put on record in open court as follows:

By the Court: Okay...do you want to bring your client up here please. This is criminal case CR83-12-0614, State of Ohio v. Von Clark Davis and Mr. Davis ah, I'm looking at a

form apparently that bears your signature, is that correct?

Mr. Davis: That's correct.

By the Court: This form indicates to the Court that you're exercising an election that ah, provided by Statute whereby you're asking or you're electing to have the Court decide the aggravating circumstance in this case, is that your understanding?

Mr. Davis: This is correct, yes...that is correct.

By the Court: And in effect, what you're doing is saying to...that you want the Court to decide ah, in this case, I think it's prior offense...

Mr. Davis: Right.

By the Court: And that particular decision would have to be made by the Court after hearing some evidence and also after there'd be a decision by the Jury in this case, do you follow that?

Mr. Davis: Yes I do.

By the Court: Is that what you want to do here?

Mr. Davis: That's what I want to do.

By the Court: Nobody is pushing you in any direction here, you're doing this of your own free will?

Mr. Davis: No....yes I am.

By the Court: You've discussed this thoroughly with your attorneys?

Mr. Davis: With both attorneys.

By the Court: Alright, we'll permit the Election then. If you think an Entry should be in here, we'll put an Entry on.

Mr--Eichel: I think that Waiver is sufficient, your Honor.

By the Court: Alright, that's all we'll have this morning.

Mr. Garretson: Thank you your Honor.

AND THEREUPON, on the 8th day of May, 1984, the following Election of a Three Judge Panel was put on record in open Court as follows:

By the Court: Mr. Davis, you're brought over here today because of some information that your attorneys passed on to the Court, wherein, you indicated to them and they indicated to me that you want to waive your right to ~~a jury~~ have this matter tried by a jury of twelve people and submit it to a panel of three judges?

Mr. Davis: That is correct.

By the Court: Is that correct?

Mr. Davis: That is correct.

By the Court: And in that regard, did you execute this form...it seems to bear your signature?

Mr. Davis: Yes it is.

05/08/2009 15:29

(FAX)

P.002/004  
IMAGED

STATE OF OHIO,

Plaintiff,

vs.

VON CLARK DAVIS

Defendant.

Case No. CR 1983-12-0614

Judge Nastoff

---

**DEFENDANT'S SUPPLEMENTAL ANSWER  
TO REQUEST FOR DISCOVERY**

---

**NOW COMES** Defendant, by and through his undersigned counsel, and, responding to the State's Motion for Discovery, responds as follows:

**A. DOCUMENTS AND TANGIBLE OBJECTS, CRIMINAL RULE 16(C)(1)(a):**

1. Any and all documents/reports/examinations/tests previously disclosed in any prior Discovery Answer by the defendant and his counsels.
2. Institutional Summary Report (2 pages dated 4/27/09)  
Attached hereto as well as to the Supplemental Discovery filed previously today, May 8, 2009.

WHEREFORE, the Defendant reserves the right to utilize any discovery provided by the State in its Answers of Discovery. Defendant reserves the right to supplement this response upon identification of additional evidence.

**B. REPORTS OF EXAMINATIONS OR TESTS, CRIMINAL RULE 16(B)(1)(d):**

1. Any and all documents/reports/examinations/tests previously disclosed in any prior Discovery Answer by the defendant and his counsels.

  
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Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

05/08/2009 15:29

(FAX)

P.003/004

3. Institutional Summary Report (2 pages dated 4/27/09)  
Attached hereto as well as to the Supplemental Discovery filed previously  
today, May 8, 2009.

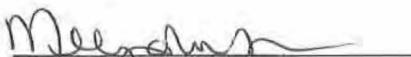
WHEREFORE, the Defendant reserves the right to utilize any discovery provided by the State in its Answers of Discovery. Defendant reserves the right to supplement this response upon identification of additional evidence.

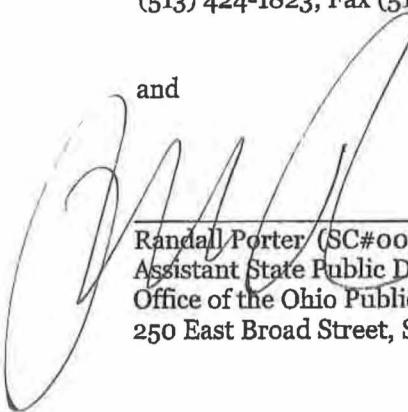
**C. WITNESSES' NAMES AND ADDRESSES, CRIMINAL RULE 16(C)(1)(c):**

1. Scott Nowack c/o Ohio State Penitentiary  
878 Coitsville Hubbard Rd.  
Youngstown, OH 44505

WHEREFORE, the Defendant reserves the right to utilize any discovery provided by the State in its Answers of Discovery. Defendant reserves the right to supplement this response upon identification of additional evidence.

Respectfully submitted,

  
Melynda Cook-Reich (SC# 0066596)  
REPPER, PAGAN, COOK  
Attorney for Defendant  
1501 First Avenue  
Middletown, OH 45044  
(513) 424-1823; Fax (513)424-3135

  
and  
Randall Porter (SC#0005835)  
Assistant State Public Defender  
Office of the Ohio Public Defender  
250 East Broad Street, Suite 1400

  
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05/08/2009 15:30

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P.004/004

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PorterR@OPD.state.OH.US

COUNSEL FOR VON CLARK DAVIS

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was delivered via hand delivery to Daniel G. Eichel, First Assistant Butler County Prosecuting Attorney, and Michael A. Oster, Jr. Assistant Butler County Prosecuting Attorney by leaving same at the Office of the Butler County Prosecuting Attorney, 11<sup>th</sup> Floor, 315 High Street, Hamilton, Ohio 45011, on this day May 8<sup>th</sup>, 2009.

*2nd of the day* Melynda Cook  
Melynda Cook-Reich (SC# 0066596)



Repper, Pagan,  
Cook, Ltd.  
Attorneys at Law  
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Phone: 513.424.1823  
FAX: 513.424.3135

## INSTITUTIONAL SUMMARY REPORT

Inmate Number A-179828	Inmate Name: Davis, Von	Date: 04/27/09
Institution: Ohio State Penitentiary	Unit: D-Block	Security Level at Admission: Death Row
Current Security Level: Death Row		

## Purpose of Report:

Parole Board (first hearing)       Parole/PRC/TC Packet       Request for information from Courts       Special Request

Parole Board (Continuance) only information since the last hearing should be included on this report

1. DISCIPLINE HISTORY: List all Class II Conduct Reports that resulted in Disciplinary Control (include a brief summation of incident and disposition). If the disposition resulted in DC and/or LC, be sure to check the appropriate box, to indicate this.

This inmate has not received any conduct reports       Inmate has not been to DC

Date:	Summation of Incident: DC <input type="checkbox"/> Time: _____	LC <input type="checkbox"/> Time: _____
Date:	Summation of Incident: DC <input type="checkbox"/> Time: _____	LC <input type="checkbox"/> Time: _____
Date:	Summation of Incident: DC <input type="checkbox"/> Time: _____	LC <input type="checkbox"/> Time: _____
Date:	Summation of Incident: DC <input type="checkbox"/> Time: _____	LC <input type="checkbox"/> Time: _____

(Attach DRC2667-Conduct Report Addendum, if necessary)

\* These rules have been paraphrased for space; refer to AR-5120-9-06 for exact wording

The inmate has received one (1) conduct reports that did not result in DC

## Brief Summation of Incident(s):

Inmate Davis has been on Death Row since 1984 during which time Inmate Davis has only received one conduct report. This conduct report was in January 1990 for refusing a cell move. Inmate Davis received a verbal warning for this rule infraction.

## 2. Educational participation during this incarceration (please read across).

<input type="checkbox"/> Enrolled in Adult Basic Ed classes	<input type="checkbox"/> Literacy Unit	<input type="checkbox"/> Pre-GED classes	<input type="checkbox"/> Quit or was Removed from these
<input type="checkbox"/> Enrolled in GED classes	<input type="checkbox"/> Obtained GED	<input type="checkbox"/>	<input type="checkbox"/> Quit or was Removed from GED classes
<input type="checkbox"/> Enrolled in college classes	<input type="checkbox"/> Obtained degree or certificate	<input type="checkbox"/>	<input type="checkbox"/> Quit or was Removed from college program
<input type="checkbox"/> Enrolled in vocational program	<input type="checkbox"/> Completed Vocational program	<input type="checkbox"/>	<input type="checkbox"/> Quit or was Removed from vocational program

## Which Educational Programs?


## 3. Work History:

A. What was the average performance of inmate?  Excellent  Good  Average  Below Avg  Poor

B. What type of work did the inmate perform?

Job Title	Work Location	Status	Length of Employment
Porter	OSP	Current	since 11/2005
Porter	MANCI	Transferred	various
Recreation Worker	MANCI	Job rotation	various
Food Service Worker	MANCI	Job rotation	various
Artist	MANCI	Job rotation	various

## 4. Program participation:

A. What programs were recommended?

Name of Program	Type of Program
Not applicable to Death Row inmates	

B. What was the level of program participation by the inmate?  Excellent  Good  Average  Below Avg  Poor  
 Refused to participate  Insufficient time to complete program

C. What programs were completed by inmate?

Name of Program	Type of Program	Status
Stress Management (OSP)	Social-Interactions	enrolled in at OSP
Positive Thinking (MANCI)	Social-Interactions	completed at MANCI
Anger Management (SOCF)	Social-Interactions	completed at SOCF
AA meetings (SOCF)	Recovery Services	attended at SOCF
Military Veteran meetings (SOCF)		attended at SOCF

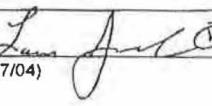
(Attach DRC2668-Program Addendum, if necessary)

**NOTE: For Parole Plan choices A through D, complete and attach DRC-2869 Parole Plan Addendum**

## ADDITIONAL COMMENTS:

In May 2006, Inmate Davis was moved to OSP's extended privilege unit.

Inmate Davis has volunteered and participated in several OSP community service projects which have assisted various local schools &amp; churches.

Submitted by (Case Manager, please print) Scott S Nowak	Date
Signature 	4-27-09
Reviewed by (Unit Manager, please print) Laura Johnson	Date
Signature 	4-27-09
DRC 2666 E (07/04)	

Page 2 of 2

CINDY CARPENTER

CLERK OF COURTS

FILED

2009 MAY -8 PM 1:10

CINDY CARPENTER  
BUTLER COUNTY  
CLERK OF COURTS

WITNESS INFORMATION

NAME: Jerome Stineman

ADDRESS: [REDACTED]

CITY: Cincinnati

STATE: OH

ZIP: 45208

Today's Date: May 8, 2009 Case No.: CR 1983-12-0614

Plaintiff: State of Ohio vs. Defendant: Von Clark Davis

**PRAECIPE FOR SUBPOENA  
Criminal- Hearing  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

TYPE OF SERVICE:

Certified Mail  Personal Service by Butler County Sheriff

Appointed Process Server  Foreign County Sheriff

XX Attorney Service

The above named Witness is commanded to appear in the Common Pleas Court of Butler County, Ohio at the Government Services Center, 3<sup>rd</sup> Floor, 315 High Street, Hamilton, Ohio 45011 as follows:

**DATE: May 11, 2009 through May 14, 2009**

**TIME: 9:00 a.m. both days  
released by Attorney**

**JUDGE: Nastoff**

THE WITNESS IS ORDERED TO BRING THE FOLLOWING DOCUMENTS:

REQUESTING ATTORNEY  
Name: Melynda Cook-Reich  
Repper, Pagan, Cook Ltd.  
1501 First Avenue  
Middletown, OH 45044  
513-424-1823; Fax (513) 424-3135

IMAGED

IN THE COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO  
2003 MAY -8 PM 1:10

STATE OF OHIO,

Plaintiff,

JEFF LARSEN  
BUTLER COUNTY  
CLERK OF COURTS

Case No. CR 1983-12-0614

vs.

VON CLARK DAVIS

Defendant.

Judge Nastoff

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DEFENDANT'S SUPPLEMENTAL ANSWER  
TO REQUEST FOR DISCOVERY

---

**NOW COMES** Defendant, by and through his undersigned counsel, and, responding to the State's Motion for Discovery, responds as follows:

**A. DOCUMENTS AND TANGIBLE OBJECTS, CRIMINAL RULE 16(C)(1)(a):**

1. Any and all documents/reports/examinations/tests previously disclosed in any prior Discovery Answer by the defendant and his counsels.
2. DRC Record- Budgeted Inmate Costs as of 5/4/09.

WHEREFORE, the Defendant reserves the right to utilize any discovery provided by the State in its Answers of Discovery. Defendant reserves the right to supplement this response upon identification of additional evidence.

**B. REPORTS OF EXAMINATIONS OR TESTS, CRIMINAL RULE 16(B)(1)(d):**

1. Any and all documents/reports/examinations/tests previously disclosed in any prior Discovery Answer by the defendant and his counsels.
2. DRC Record- Budgeted Inmate Costs as of 5/4/09.

  
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1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

(294)

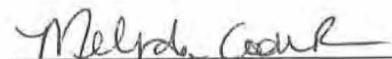
WHEREFORE, the Defendant reserves the right to utilize any discovery provided by the State in its Answers of Discovery. Defendant reserves the right to supplement this response upon identification of additional evidence.

**C. WITNESSES' NAMES AND ADDRESSES, CRIMINAL RULE 16(C)(1)(c):**

1. Fannie Whiteside -- previously disclosed (this is address update)  
Glendale Place Care Facility  
c/o Chase Kohn, Administrator  
779 Glendale Milford Road  
Cincinnati, OH 45215  
(513) 771-1779
2. Elizabeth Crawford- previously disclosed (phone number update)  
[REDACTED]
3. DRC Record Custodian  
c/o Vince Ligano  
ODRC Legal Services  
770 West Broad St.  
Columbus, OH 43222

WHEREFORE, the Defendant reserves the right to utilize any discovery provided by the State in its Answers of Discovery. Defendant reserves the right to supplement this response upon identification of additional evidence.

Respectfully submitted,

  
Melynda Cook-Reich (SC# 0066596)  
REPPER, PAGAN, COOK  
Attorney for Defendant  
1501 First Avenue  
Middletown, OH 45044  
(513) 424-1823; Fax (513)424-3135



Repper, Pagan,  
Cook, Ltd.  
Attorneys at Law  
1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

and

*Randall Porter* *(mer)*

Randall Porter (SC#0005835)  
Assistant State Public Defender  
Office of the Ohio Public Defender  
250 East Broad Street, Suite 1400  
Columbus, Ohio 43215  
(614) 466-5394 (Voice)  
(614) 644-0703 (Facsimile)  
[PorterR@OPD.state.OH.US](mailto:PorterR@OPD.state.OH.US)

COUNSEL FOR VON CLARK DAVIS

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was delivered via hand delivery to Daniel G. Eichel, First Assistant Butler County Prosecuting Attorney, and Michael A. Oster, Jr. Assistant Butler County Prosecuting Attorney by leaving same at the Office of the Butler County Prosecuting Attorney, 11<sup>th</sup> Floor, 315 High Street, Hamilton, Ohio 45011, on this day May 8<sup>th</sup>, 2009.

*Melynda Cook*  
Melynda Cook-Reich (SC# 0066596)



Repper, Pagan,  
Cook, Ltd.  
Attorneys at Law  
1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

**DRC Current FY 2009 Budgeted Inmate Costs**  
**As of 05/04/2009**

Institution	FY09 Budget All Funds	Non-GRF	GRF budget	FY09 Pop 04/27/09	Yearly Direct Inmate Cost	Daily Direct Inmate Cost
ALLEN C.I.	\$ 29,599,828	\$ 3,711,149	\$ 25,888,679	1,328	\$ 22,289.03	\$ 61.07
BELMONT C.I.	41,049,625	4,859,857	36,189,768	2,635	15,578.61	42.68
CHILLICOTHE C.I.	47,683,015	4,654,658	43,028,357	2,872	16,602.72	45.49
CORR MEDICAL CTR.	45,036,318	6,567,253	38,469,066	148	N/A	N/A
CORRECTIONAL R.C.	41,270,779	4,666,602	36,604,177	1,524	27,080.56	74.19
DAYTON C.I.	16,087,346	1,362,519	14,724,827	470	34,228.40	93.78
FRANKLIN P.R.C.	11,365,458	1,502,532	9,862,926	485	23,433.93	64.20
GRAFTON C.I.	31,012,073	3,589,390	27,422,683	1,499	20,688.51	56.68
HOCKING C.F.	14,537,219	1,284,596	13,252,623	481	30,222.91	82.80
LAKE ERIE C.I.	24,496,886	93,072	24,403,814	1,482	16,529.61	45.29
LEBANON C.I.	44,349,363	5,751,056	38,598,307	2,695	16,456.16	45.09
LONDON C.I.	39,947,858	6,249,009	33,698,850	2,522	15,839.75	43.40
LORAIN C.I.	38,178,201	3,961,559	34,216,643	1,907	20,020.03	54.85
MADISON C.I.	43,464,489	4,270,940	39,193,549	2,303	18,872.99	51.71
MANSFIELD C.I.	52,715,589	5,745,528	46,970,061	2,489	21,179.43	58.03
MARION C.I.	40,578,247	4,574,295	36,003,952	2,307	17,589.18	48.19
MONTGOMERY E.P.R.C.	10,995,418	1,179,333	9,816,084	340	32,339.46	88.60
NOBLE C.I.	38,592,152	3,546,232	35,045,921	2,457	15,707.02	43.03
NORTH CENTRAL C.I.	37,871,223	4,810,354	33,060,869	2,289	16,544.88	45.33
NORTH COAST C.T.F.	15,463,379	169,720	15,293,659	665	23,253.20	63.71
NORTHEAST P.R.C.	16,068,898	1,787,346	14,281,552	568	28,290.31	77.51
OAKWOOD C.F.	22,952,744	653,876	22,298,868	147	N/A	N/A
OHIO REF FOR WOMEN	43,621,442	3,612,052	40,009,389	2,428	17,966.00	49.22
OHIO S.P.	30,980,081	2,262,179	28,717,902	527	58,785.73	161.06
PICKAWAY C.I.	58,731,296	6,342,398	52,388,898	2,452	23,952.40	65.62
RICHLAND C.I.	36,936,180	4,830,297	32,105,883	2,528	14,610.83	40.03
ROSS C.I.	44,939,656	6,253,947	38,685,708	2,578	17,431.98	47.76
SOUTHEAST C.I.	31,454,505	3,431,655	28,022,851	1,323	23,775.14	65.14
SOUTHERN OHIO C.F	54,087,277	4,878,617	49,208,660	1,607	33,657.30	92.21
TOLEDO C.I.	30,014,079	2,432,901	27,581,178	1,148	26,144.67	71.63
TRUMBULL C.I.	35,388,826	3,321,076	32,067,750	1,407	25,151.97	68.91
WARREN C.I.	32,707,273	2,919,437	29,787,836	1,421	23,017.08	63.06
<b>Direct Total</b>	\$ 1,102,176,724	\$ 115,275,435	\$ 986,901,290	51,032	\$ 21,597.76	\$ 59.17
<b>Indirect Total</b>	<u>\$ 213,654,137</u>	<u>\$ 56,966,460</u>	<u>\$ 156,687,677</u>	<u>51,032</u>	<u>\$ 3,070.38</u>	<u>\$ 8.41</u>
<b>DRC Total</b>	<b>\$ 1,315,830,861</b>	<b>\$ 172,241,894</b>	<b>\$ 1,143,588,967</b>	<b>51,032</b>	<b>\$ 24,668.14</b>	<b>\$ 67.58</b>

Note This report reflects FY09 Budget as of 06/30/08.  
The only data changed in this report is Average Inmate count reflecting inmate population

**Note:**

1. Amounts include indirect inmate cost associated with administration, programs such as medical services, technology etc. Indirect examples are Centralizes purchasing (ie. vehicles, computers) Centralized transportation, agency data systems etc.

## INSTITUTIONAL SUMMARY REPORT

Inmate Number A-179828	Inmate Name: Davis, Von	Date: 04/27/09	
Institution: Ohio State Penitentiary	Unit: D-Block	Security Level at Admission: Death Row	Current Security Level: Death Row

## Purpose of Report:

Parole Board (first hearing)       Parole/PRC/TC Packet       Request for information from Courts       Special Request

Parole Board (Continuance) only information since the last hearing should be included on this report

1. DISCIPLINE HISTORY: List all Class II Conduct Reports that resulted in Disciplinary Control (Include a brief summation of incident and disposition). If the disposition resulted in DC and/or LC, be sure to check the appropriate box, to indicate this.

This inmate has not received any conduct reports       Inmate has not been to DC

Date:	Summation of Incident: DC <input type="checkbox"/> Time: _____	LC <input type="checkbox"/> Time: _____
Date:	Summation of Incident: DC <input type="checkbox"/> Time: _____	LC <input type="checkbox"/> Time: _____
Date:	Summation of Incident: DC <input type="checkbox"/> Time: _____	LC <input type="checkbox"/> Time: _____
Date:	Summation of Incident: DC <input type="checkbox"/> Time: _____	LC <input type="checkbox"/> Time: _____

(Attach DRC2667-Conduct Report Addendum, if necessary)

\* These rules have been paraphrased for space; refer to AR-5120-9-06 for exact wording.

The inmate has received one (1) conduct reports that did not result in DC

## Brief Summation of Incident(s):

Inmate Davis has been on Death Row since 1984 during which time Inmate Davis has only received one conduct report. This conduct report was in January 1990 for refusing a cell move. Inmate Davis received a verbal warning for this rule infraction.

## 2. Educational participation during this incarceration (please read across).

<input type="checkbox"/> Enrolled in Adult Basic Ed classes	<input type="checkbox"/> Literacy Unit	<input type="checkbox"/> Pre-GED classes	<input type="checkbox"/> Quit or was Removed from these
<input type="checkbox"/> Enrolled in GED classes	<input type="checkbox"/> Obtained GED	<input type="checkbox"/> Obtained degree or certificate	<input type="checkbox"/> Quit or was Removed from GED classes
<input type="checkbox"/> Enrolled in college classes	<input type="checkbox"/> Completed Vocational program	<input type="checkbox"/> Completed Vocational program	<input type="checkbox"/> Quit or was Removed from college program
<input type="checkbox"/> Enrolled in vocational program			<input type="checkbox"/> Quit or was Removed from vocational program

## Which Educational Programs?

_____	_____
_____	_____
_____	_____

## 3. Work History:

A. What was the average performance of inmate?  Excellent  Good  Average  Below Avg  Poor

B. What type of work did the inmate perform?

Job Title	Work Location	Status	Length of Employment
Porter	OSP	Current	since 11/2005
Porter	MANCI	Transferred	various
Recreation Worker	MANCI	Job rotation	various
Food Service Worker	MANCI	Job rotation	various
Artist	MANCI	Job rotation	various

## 4. Program participation:

A. What programs were recommended?

Name of Program	Type of Program
Not applicable to Death Row inmates	

B. What was the level of program participation by the inmate?  Excellent  Good  Average  Below Avg  Poor  
 Refused to participate  Insufficient time to complete program

C. What programs were completed by inmate?

Name of Program	Type of Program	Status
Stress Management (OSP)	Social-Interactions	enrolled in at OSP
Positive Thinking (MANCI)	Social-Interactions	completed at MANCI
Anger Management (SOCF)	Social-Interactions	completed at SOCF
AA meetings (SOCF)	Recovery Services	attended at SOCF
Military Veteran meetings (SOCF)		attended at SOCF

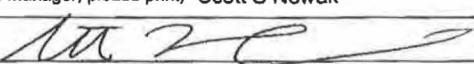
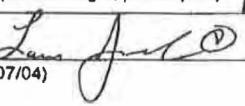
(Attach DRC2668-Program Addendum, if necessary)

**NOTE: For Parole Plan choices A through D, complete and attach DRC-2669 Parole Plan Addendum**

ADDITIONAL COMMENTS:

In May 2006, Inmate Davis was moved to OSP's extended privilege unit.

Inmate Davis has volunteered and participated in several OSP community service projects which have assisted various local schools & churches.

Submitted by (Case Manager, please print) Scott S Nowak	Date
Signature 	4-27-09
Reviewed by (Unit Manager, please print) Laura Johnson	Date
Signature 	4-27-09
DRC 2666 E (07/04)	

Page 2 of 2

RESIDENTIAL SERVICE

RETURN OF SUBPOENA  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO

STATE OF OHIO

CASE NUMBER: CR 1983 12 0614

vs.

VON CLARK DAVIS

DATE ISSUED: April 30, 2009

COURT DATE: MAY 11 2009

SUMMONS INFORMATION:

Name: Dr JOSEPH H BRANDABUR  
Address: BUTLER COUNTY CORONER'S OFFICE  
315 HIGH ST 6<sup>TH</sup> FLR  
HAMILTON, OH 45011

RECEIVED  
MAY 12 2009  
SHERIFF, CLERK  
BUTLER COUNTY  
CLERK OF COURT

INSTRUCTIONS: This Subpoena is required to be served at the residence named above, upon a person of suitable age and discretion.

DOCUMENTED ATTEMPTS AT SERVICE:

Date: \_\_\_\_\_  
Date: \_\_\_\_\_  
Date: \_\_\_\_\_

PERSONAL SERVICE:

Signature: \_\_\_\_\_

ALTERNATE SUBJECT SERVED:

Signature: Shannon Peinger  
Printed Name: \_\_\_\_\_  
Relationship: \_\_\_\_\_

PERFECTED SERVICE:

Date: MAY 04 2009 Time: 0910

FAILURE OF SERVICE:

Reason for failure: \_\_\_\_\_

SHERIFF'S FEES:

Mileage: 2.00  
Return of Service: 6.00  
TOTAL FEES: 8.00

Deputy: \_\_\_\_\_  
Badge Number: Shannon Cook #1476

CIVIL DIVISION DATA ENTRY OF FEES	
Initial:	<u>BM</u>
Date:	<u>MAY 10 2009</u>

File this document with Butler County Clerk of Courts

000190278

## RESIDENTIAL SERVICE

### RETURN OF SUBPOENA COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO

STATE OF OHIO

CASE NUMBER: CR 1983 12 0614

vs.

VON CLARK DAVIS

DATE ISSUED: April 30, 2009

COURT DATE: MAY 11 2009

#### SUMMONS INFORMATION:

Name: RICHARD R CARPENTER

Address: [REDACTED]  
HAMILTON, OH 45011

INSTRUCTIONS: This Subpoena is required to be served at the residence named above, upon a person of suitable age and discretion.

#### DOCUMENTED ATTEMPTS AT SERVICE:

Date: \_\_\_\_\_  
Date: \_\_\_\_\_  
Date: \_\_\_\_\_

#### PERSONAL SERVICE:

Signature: \_\_\_\_\_

#### PERFECTED SERVICE:

Date: 05-05-09 Time: 1000

#### ALTERNATE SUBJECT SERVED:

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Relationship: \_\_\_\_\_

#### FAILURE OF SERVICE:

Reason for failure: \_\_\_\_\_

#### SHERIFF'S FEES:

Mileage: 3.50

Return of Service: 6.00

TOTAL FEES: 9.50

Deputy: mckel

Badge Number: 1139

CIVIL DIVISION	
RECEIPT OF FEES	
Initial:	MAP 10/2008
Date: _____	

File this document with Butler County Clerk of Courts

000190277

IMAGED

2:59  
COURT

## RESIDENTIAL SERVICE

RETURN OF SUBPOENA  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO

STATE OF OHIO

CASE NUMBER: CR 1983 12 0614

vs.

DATE ISSUED: April 30, 2009

VON CLARK DAVIS

COURT DATE: MAY 11 2009

**SUMMONS INFORMATION:**

Name: CHARLES R FURMON  
Address: [REDACTED]  
HAMILTON, OH 45013

**INSTRUCTIONS:** This Subpoena is required to be served at the residence named above, upon a person of suitable age and discretion.

**DOCUMENTED ATTEMPTS AT SERVICE:**

Date: 05-04-09 0900 WC 1139  
Date: \_\_\_\_\_  
Date: \_\_\_\_\_

**PERSONAL SERVICE:**

Signature: C. Furmon

**PERFECTED SERVICE:**

Date: 05-04-09 Time: 1200

**ALTERNATE SUBJECT SERVED:**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Relationship: \_\_\_\_\_

**FAILURE OF SERVICE:**

Reason for failure: \_\_\_\_\_

**SHERIFF'S FEES:**

Mileage: 3.50  
Return of Service: 6.00  
TOTAL FEES: 9.50  
Deputy: M. J. Lee  
Badge Number: 1139

CIVIL DIVISION DATA ENTRY OF FEES	
Initial:	<u>BM</u>
Date:	<u>MAY 10 2009</u>

File this document with Butler County Clerk of Courts

IMAGED

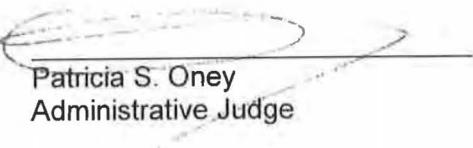
2019 JULY 11 PM 1:14

**COURT OF COMMON PLEAS  
CLERK'S OFFICE  
BUTLER COUNTY, OHIO**

STATE OF OHIO : CASE NO. CR1983 12 0614  
Plaintiff : Sage, J.  
vs. :  
VON CLARK DAVIS : ENTRY  
Defendant :  
\_\_\_\_\_

Upon request, a three-judge panel consisting of Hon. Andrew Nastoff, Presiding Judge, Hon. Charles L. Pater, and Hon. Keith M. Spaeth are hereby appointed to hear testimony in this matter.

**SO ORDERED.**

  
Patricia S. Oney  
Administrative Judge

Copies to: Prosecuting Attorney  
Judge Andrew Nastoff  
Judge Patricia S. Oney  
Judge Keith M. Spaeth  
Judge Charles L. Pater

Judge Michael J. Sage  
Common Pleas Court  
Butler County, Ohio

2019  
a

IMAGES



**ROBIN N. PIPER**  
**BUTLER COUNTY PROSECUTING ATTORNEY**

Government Services Center • 4th Floor  
P.O. Box 515 • 315 High St. • Hamilton, OH 45012-0515  
Phone 513-887-3474 • Fax 513-785-5206

BUTLER COUNTY  
CLERK OF COURTS



\* FILE

TO: MARY SWAIN Fax 785-5719

Re: Court Stenographer

Date: May 4, 2009

Person Ordering Transcript: Mike Oster/ Lisa McClendon

Date of Hearing/ Trial: 4/8/09 and 4/21/09

Phone # 785-5190

Case Caption: St. vs. Von Clark Davis

Case #: CR1983-12-0614

Description of Request: Motion Hrgs (what def ordered)

Court Venue: Butler County Common Pleas

Judge who heard case: Judge Nastoff

Date Transcript needed: When available

2014

IMAGED

COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO

STATE OF OHIO

2009 MAY 13 PM 2:03

Case No. CR 83-12-0614

Plaintiff

CHARLES PARLETT  
BUTLER COUNTY  
CLERK OF COURTS

Judge Nastoff

vs.

Von Clark Davis

PRETRIAL ORDER

Defendant(s)

\*\*\*\*\*  
This matter came before this Court this 13<sup>th</sup> day of May, 2009,

and the following orders and deadlines were established, and shall be the order of the Court:

<sup>FINAL PT</sup> PLEA or TRIAL SETTING is set for 9/3/09 at 11:00A m.

DISPOSITION is set for \_\_\_\_\_ at \_\_\_\_\_ m.

TRIAL is to commence on \_\_\_\_\_ at \_\_\_\_\_ m.

MOTION \_\_\_\_\_ shall be filed by \_\_\_\_\_

and shall be heard on \_\_\_\_\_ at \_\_\_\_\_ m.

<sup>Re-Sentencing hearing</sup> OTHER HEARING is set for 9/8/09 4 days at 9:00A m.  
Three Judge Panel.

**BILL OF PARTICULARS**

Defendant's motion to be filed by \_\_\_\_\_

Prosecutor's response to be filed by \_\_\_\_\_

**DISCOVERY**

Defendant's motion to be filed by \_\_\_\_\_

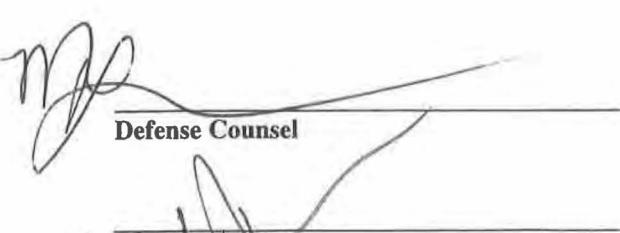
Prosecutor's response to be filed by \_\_\_\_\_

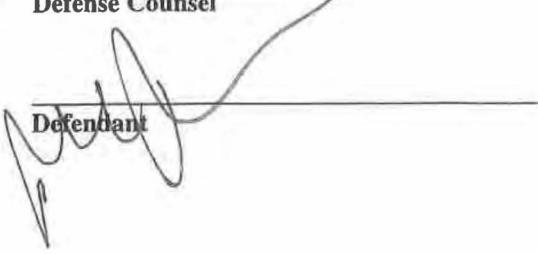
Prosecutor's motion to be filed by \_\_\_\_\_

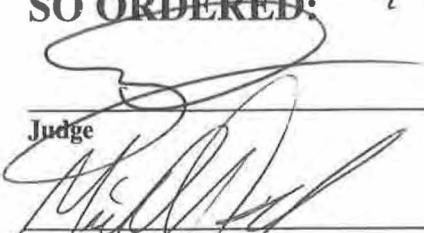
Defendant's response to be filed by \_\_\_\_\_

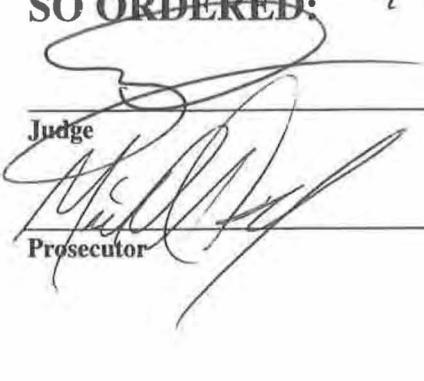
**BOND IS REVOKED/SET** All Counsel consent to above hearing  
**CAPIAS TO ISSUE** schedule. & to be transported to BCT NLT  
9/2/09.

**SO ORDERED:**

  
Defense Counsel

  
Defendant

  
Judge

  
Prosecutor

CINDY CARPENTER



CLERK OF COURTS

**PROCESS SERVER'S SUBPOENA COPY: RANDALL PORTER**

Date: May 7, 2009

Case No.: CR 1983 12 0614

STATE OF OHIO VS VON CLARK DAVIS

**SUBPOENA SERVED BY PROCESS SERVER  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

To the Special Process Server: You are directed to serve the attached subpoena issued by the Butler County Court of Common Pleas.

Please serve upon the following party:

SCOTT NOWACK  
C/O OHIO STATE PENITENTIARY  
878 COITSVILLE HUBBARD RD  
YOUNGSTOWN, OH 44505

CINDY CARPENTER  
Butler County Clerk of Courts

By: SHONDA ERTEL  
Deputy Clerk

1:58 PM 1:58 PM : 58  
~~1. This subpoena~~ EXECUTION OF SERVICE BY SPECIAL PROCESS SERVER  
1. This subpoena was served on May 8<sup>th</sup>, 2009. Mileage 558  
2. This subpoena was unable to be served for the following reasons:  
May 8<sup>th</sup> 2009  
Signature: Jessica J. Lane

SIGNATURE: Jessica J. Lane TOTAL FEES \$ 173.40  
Process Server  
Address: 250 E. Broad St. 14th Flr Cols. On 43215  
C000067059

GOVERNMENT SERVICES CENTER • 315 HIGH STREET • SUITE 550 • HAMILTON, OHIO 45011-6016

BUTLER COUNTY CLERK OF COURTS  
[www.butlercountyclerk.org](http://www.butlercountyclerk.org)

IN AGENCY

CINDY CARPENTER



CLERK OF COURTS

**PROCESS SERVER'S SUBPOENA COPY: RANDALL PORTER**

Date: May 7, 2009

Case No. : CR 1983 12 0614  
STATE OF OHIO VS VON CLARK DAVIS

**SUBPOENA SERVED BY PROCESS SERVER  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

To the Special Process Server: You are directed to serve the attached subpoena issued by the Butler County Court of Common Pleas.

Please serve upon the following party:

SCOTT NOWACK  
C/O OHIO STATE PENITENTIARY  
878 COITSVILLE HUBBARD RD  
YOUNGSTOWN, OH 44505

CINDY CARPENTER  
Butler County Clerk of Courts

By: SHONDA ERTEL

Deputy Clerk

**EXECUTION OF SERVICE BY SPECIAL PROCESS SERVER**

1. This subpoena was served on May 8<sup>th</sup>, 2009. Mileage 558

2. This subpoena was unable to be served for the following reasons:

None Return and Service \_\_\_\_\_

SIGNATURE: Shonda E. Ertel TOTAL FEES \$ 173.40

Process Server

Address: 250 E. Broad St. 14th Flr Cols. OH 43215  
C000067059

GOVERNMENT SERVICES CENTER • 315 HIGH STREET • SUITE 550 • HAMILTON, OHIO 45011-6016

BUTLER COUNTY CLERK OF COURTS  
[www.butlercountyclerk.org](http://www.butlercountyclerk.org)

IMAGED

COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO

STATE OF OHIO

CASE NO. CR1983-12-0614

Plaintiff

NASTOFF, J.

vs.

ENTRY FOR TRANSPORT

VON CLARK DAVIS

September 03, 2009

Defendant

It appears to the Court that **Von Clark Davis**, Inmate No. **A179828**, is confined at the **Ohio State Penitentiary**, Youngstown, Ohio 44505

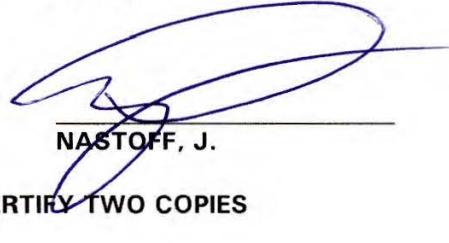
It further appears to the Court that a **Pre-Trial Conference** in the above captioned matter is set for **September 03, 2009 at 9:00AM** in the Butler County Court of Common Pleas, before the Honorable Andrew Nastoff and shall be held until the completion of the **Sentencing Hearing** scheduled for **September 8, 2009**.

**IT IS THEREFORE, ORDERED** that the Warden of the **Ohio State Penitentiary** cause said defendant to be released to the Sheriff of Butler County, Ohio, for the purpose of attending said hearing in Butler County, Ohio, and said defendant shall be held in the custody of the Sheriff of Butler County, Ohio, until the completion of said hearing and upon the completion of said hearing, said defendant shall be returned to the institution unless otherwise Ordered by this Court.

APPROVED AS TO FORM:

ENTER

ROBIN PIPER  
PROSECUTING ATTORNEY  
BUTLER COUNTY, OHIO

  
NASTOFF, J.

INSTRUCTIONS TO THE CLERK: PLEASE CERTIFY TWO COPIES

MAO/beg  
May 13, 2009

298

IN THE COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO

FILED

V28  
IMAGED

STATE OF OHIO,

Plaintiff,

vs.

VON CLARK DAVIS

Defendant.

FILED BUTLER CO.  
COURT OF APPEALS

JUN 13 2009

CINDY CARPENTER  
CLERK OF COURTS

Judge Andrew Nastoff

2009 JUN -3 AM 10:37

JINDY CARPENTER  
BUTLER COUNTY  
CLERK OF COURTS**MOTION AND CERTIFICATION**  
**BY COURT REPORTER FOR**  
**TRANSCRIPTION FEES**

The undersigned, having been appointed the Assistant Court Reporter assigned to transcribe proceedings, moves this Court for an order approving payment of fees as indicated herein. I certify that I  **Have**  **Have NOT** received additional compensation in connection with providing transcripts herein. I have performed all transcription services indicated herein. I further certify that all transcriptions described herein have been filed in a timely manner in accordance with applicable scheduling orders or other due dates.

(\*) Circumstances of additional compensation \_\_\_\_\_

JILL CUTTER

Assistant Court Reporter

Signature

**SUMMARY OF CHARGES**Original Transcript 60 pages at the rate of \$ 5.00 = \$ 300.00Copy of Transcript 60 pages at the rate of \$ 2.50 = \$ 150.00

Original Transcript \_\_\_\_\_ pages at the rate of \_\_\_\_\_ = \_\_\_\_\_

Copy of Transcript \_\_\_\_\_ pages at the rate of \_\_\_\_\_ = \_\_\_\_\_

TOTAL TRANSCRIPTION FEES at the rate of \$ 5.00 per page = \$ 300.00TOTAL TRANSCRIPTION COPIES at the rate of \$ 2.50 per page = \$ 150.00Grand total of all charges = \$ 450.00

(299)

CLERK'S/AUDITOR'S TRANSCRIPT FEE FOR AN INDIGENT DEFENDANT

Revised Code 2301.24-25

In the Common Pleas Court of Butler County, Ohio.

Plaintiff: State of Ohio

FILED BUTLER CO.  
COURT OF APPEALS

FILED

v. VON CLARK DAVIS

JUN 03 2009

Defendant/Party Represented CINDY CARPENTER  
CLERK OF COURTS

In re \_\_\_\_\_

Case No. 2009 HIN-3 AM CR83-12-0614

Attorney(s) for the Defendant/Party Represented:  
MELYNDA COOK-REICH

BUTLER COUNTY  
CLERK OF COURTS

CLERK OF COURTS CERTIFICATION

I, the Clerk of Courts, hereby certify that JILL CUTTER \_\_\_\_\_, \_\_\_\_\_, is

(Court Reporter's Name) (Court Reporter's Tax ID)

hereby an official stenographer of said court and is entitled to the following fees for making transcript(s) of:

Clerk's Signature

Date

The transcript is ordered by the court for use by the Defendant or the Defendant's attorney in the following type of proceeding:

Felony, Misdemeanor, or Juvenile Proceeding       Capital Offense Trial proceeding  
 Appeals Proceeding       Capital Offense Appeals proceeding  
 Postconviction Proceeding       Capital Offense Postconviction proceeding  
 Other (Explain) \_\_\_\_\_

Date which **above checked proceeding** terminated: \_\_\_\_\_ OR  Still Pending (check if pending)

Original transcript of 60 pages or folio at the rate of \$ 5.00 per page or folio, = \$ 300.00

Copy of transcript of 60 pages or folio at the rate of \$ 2.50 per page or folio, = \$ 150.00

TOTAL = \$ 450.00

**NOTE: A COPY OF THE COURT REPORTER'S BILLING MUST BE ATTACHED**

JUDGMENT ENTRY

The court finds that the transcript was ordered for use in the case of an Indigent person, that all rules and standards of the Ohio Public Defender Commission and State Public Defender have been met and that an Affidavit of Indigency/ Financial Disclosure for the above referenced client has been sent to the Office of the Ohio Public Defender or is attached to this document.

IT IS THEREFORE ORDERED that the transcript fees be, and are hereby approved in the amount of \$ 450.00 It is further ordered that the said amount be, and hereby is, certified by the Court to the County Auditor for payment.

Andrew Nastoff

Judge's Name (type or print)

Judge's Signature

Date 01/09

AUDITOR'S CERTIFICATION

The County Auditor in executing this certificate attests that the transcript was a true and accurate expense of said county's court.

County Number \_\_\_\_\_ Warrant Number \_\_\_\_\_ Warrant Date \_\_\_\_\_

County Auditor's Signature

OPD-E-205 Rev. (11/96)

VON CLARK DAVIS v. WARDEN  
CASE NO. 2:16-cv-00495  
APPENDIX - Page 4810

IN THE COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO

STATE OF OHIO,

Plaintiff,

vs.

VON CLARK DAVIS

Defendant.

FILED  
Case No: CR83-12-0614  
COURT OF APPEALS

FILED

2009 JUN -3 AM 10:37

JUN 03 2009  
CINDY CARPENTER  
CLERK OF COURTSCINDY CARPENTER  
BUTLER COUNTY  
CLERK OF COURTS

Judge Andrew Nastoff

**ORDER TO PAY FOR TRANSCRIPTS**

The Court, in the interest of justice, orders that transcripts be made and the cost therefore shall be paid by the County Treasurer and taxed as costs in this case.

Type of Hearing	MOTION HEARING	Date 4-8-09	Number of Pages: 60
Type of Hearing		Date	Number of Pages:
Type of Hearing		Date	Number of Pages:
Type of Hearing		Date	Number of Pages:
Type of Hearing		Date	Number of Pages:
Type of Hearing		Date	Number of Pages:

TOTAL PAGES: 60 at \$ 7.50 per page = \$ 450.00

TOTAL AMOUNT DUE: \$ 450.00

The Clerk of this Court shall certify the amount of said transcript, which certificate shall be a sufficient voucher to the County Auditor, who shall forthwith draw her warrant upon the County Treasurer in favor of *JILL CUTTER* Butler County Assistant Court Reporter, who prepared the transcript.

**SAID PAYMENT TO BE PAID OUT OF ACCOUNT NUMBER:**

0001.0372.110000.130000020

Said transcript was prepared by JILL CUTTER, SSN 269-70-5406 in May

Judge Andrew Nastoff

(301)

IMAGED

IN THE COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO

FILED

2009 AUG -5 AM 10:33

PINDY CARPENTER  
BUTLER COUNTY  
CLERK'S OFFICE

STATE OF OHIO, :  
Plaintiff, : Case No. CR 1983-12-0614  
vs. :  
: :  
VON CLARK DAVIS : Judge Nastoff  
Defendant. :  
\_\_\_\_\_  
VON CLARK DAVIS' MOTION TO EXPEDITE RULING  
\_\_\_\_\_

Von Clark Davis moves this Court to convene the Panel previously designated herein for purposes of ruling on the Defendant's May 8, 2008 Motion in Limine. Mr. Davis has attached a memorandum in support that he incorporates herein.

Respectfully submitted,

*Melynda Cook-Reich*  
Melynda Cook-Reich (SC# 0066596)  
REPPER, PAGAN, COOK  
Attorney for Defendant  
1501 First Avenue  
Middletown, OH 45044  
(513) 424-1823; Fax (513)424-3135



Repper, Pagan,  
Cook, Ltd.  
Attorneys at Law  
1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

and

302

*Randall Porter* *mcawhagen*

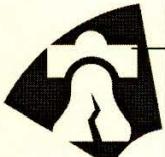
Randall Porter (SC#0005835)  
Assistant State Public Defender  
Office of the Ohio Public Defender  
250 East Broad Street, Suite 1400  
Columbus, Ohio 43215  
(614) 466-5394 (Voice)  
(614) 644-0703 (Facsimile)  
[PorterR@OPD.state.OH.US](mailto:PorterR@OPD.state.OH.US)

COUNSEL FOR VON CLARK DAVIS

## MEMORANDUM IN SUPPORT

The prosecution has provided discovery that indicates that it may call fact witnesses concerning the 1970 offense that resulted in the Mr. Davis' 1971 conviction for what was then second degree murder. The 1971 conviction is the only capital specification in this case.

On May 8, 2009, Mr. Davis filed a motion in limine to limit the prosecution's evidence concerning the 1971 conviction.<sup>1</sup> Mr. Davis adopted the position therein that the only admissible evidence is a certified copy of the court entry finding Mr. Davis guilty of the 1970 offense.<sup>2</sup> Mr. Davis has based his trial preparation on the premise that the Panel would so limit the evidence.



Repper, Pagan,  
Cook, Ltd.  
Attorneys at Law  
1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

<sup>1</sup> Mr. Davis will not, in this pleading, argue the merits of his motion in limine. He has already done that in his May 8, 2009 motion.

<sup>2</sup> The irony of this situation should not be overlooked. When Mr. Davis was convicted in 1971, he pled guilty and there was no trial. In 1984, when this case was first tried, the prosecutor pursuant to a stipulation, entered only the certified entry of the court entry to prove the 1971 conviction. Now, thirty-nine years after the 1970 murder, the prosecutor for the first time suggests that he needs to factually prove the 1970 murder. This is after Mr. Davis previously pled guilty to the murder and years later in a separate proceeding stipulated to the murder.

#### **A. MR. DAVIS IS ENTITLED TO FAIR NOTICE AS TO THE PROCEEDINGS**

“No principle or procedural due process is more clearly established than that of notice of the specific charge, and a chance to be heard in a trial of the issues raised by that charge, if desired ...” *Cole v. Arkansas* (1948), 333 U.S. 196, 201. The nature of the charge must be made known to the accused before the proceedings commence. The charges may not become a trap when, after the proceedings are underway, the charges are amended based upon the testimony adduced. *In re Ruffalo* (1968), 390 U.S. 544, 551.

In this case Mr. Davis does know the nature of the charges. However, he does not know the procedure that the Panel will invoke with respect to proof as to the single aggravating circumstance. He does not know if he will need to confront witnesses and call witnesses on his own behalf. This lack of notice as to the requisite procedure is as prejudicial to him as the lack of notice in the more traditional sense. Under either scenario he does not know how to prepare.

#### **B. MR. DAVIS IS ENTITLED TO PRESENT A DEFENSE**

The Due Process Clause of the Fourteenth Amendment guarantees the accused of a fair trial. It gives him the right to put on evidence in his favor to exculpate himself. *Specht v. Patterson* (1967), 386 U.S. 605, 610. It gives him the right to call witnesses on his own behalf. *Jenkins v. McKeithen*, 395 U.S. 411, 429 (1969). The right to present evidence is a crucial component of due process, “a person’s right to . . . an opportunity to be heard in his defense – a right to his day in court – are basic in our system of jurisprudence; and these rights include, as a minimum, a right to examine the witnesses against him



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FAX: 513.424.3135

[and] to offer testimony . . . ." *In re Oliver* (1948), 333 U.S. 257, 273. "The right to offer the testimony of witnesses, and to compel their attendance, if necessary, is in plain terms the right to present a defense, the right to present the defendant" version of the facts as well as the prosecution" to the jury so it may decide where the truth lies. Just as an accused has the right to confront the prosecution" witnesses for the purpose of challenging their testimony, he has the right to present his own witnesses to establish a defense. This right is a fundamental element of due process of law." *Washington v. Texas* (1967), 388 U.S. 14, 19.

In this case because Mr. Davis is unaware of the procedures that Panel will employ with respect to the proof of the single aggravating circumstance, he is unable to present a defense. He does not know if the Panel will permit the 1970 homicide to be fully litigated. If this is the position of the Panel, then he will need to be prepared to call witnesses on his own behalf. He will need to examine the benefit of calling a pathologist as well as any of the other witnesses in the vicinity of the shooting or with whom he interacted prior to or subsequent to the shooting.<sup>3</sup>

### **C. MR. DAVIS IS ENTITLED TO EFFECTIVE ASSISTANCE OF COUNSEL**

Mr. Davis is entitled to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668, 686 (1984). That right to effective assistance of counsel obligates defense counsel to conduct a reasonable investigation. *Id.* at



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<sup>3</sup> If the Panel decides to permit the Prosecution to call one or more witnesses as to the 1971 conviction, that decision alone may by itself effectively preclude Mr. Davis from presenting a defense. Mr. Davis, because the offense occurred so distant in time, will have little meaningful opportunity to defend himself.

691. If the prosecution is permitted to call fact witnesses to establish the 1971 conviction, counsels' obligation will be expanded to include a full investigation of the 1970 offense. A reasonable investigation entails interviewing potential prosecution witnesses, the identification of witnesses who the defense may wish to call, and the retention of necessary experts. *Workman v. Tate*, 957 F.2d 1339, 1345-46 (6th Cir. 1992); *Blackburn v. Foltz*, 828 F.2d 1177, 1182-83 (6th Cir. 1987); *Terry v. Rees*, 985 F.2d 283, 284 (6th Cir. 1993); *Richey v. Bradshaw*, 498 F.3d 344, 362-64 (2007).

The purpose of this motion is to insure that counsel is prepared. Counsel will only be prepared if they know sufficiently in advance the scope of the eligibility phase. As of the date of the filing of this motion Counsel are unclear as to the scope. This present issue does not involve the common scenario in which there is a question of whether the prosecution will be permitted to call a specific witness. If that was the situation, Counsel could adequately prepare, without the Panel's expedited ruling. Instead, Mr. Davis in his motion in limine as the Panel to address whether the prosecution will be permitted to put on a full trial as to the 1970 offense.<sup>4</sup>

WHEREFORE, Mr. Davis requests this Court to convene the three judge Panel as expeditiously as possible so that counsel may have the benefit of the Panel's ruling. Counsel neither wishes to expend time preparing for a trial phase that will not take place nor conduct an unreasonable and incomplete investigation as to a trial phase that will take place.

---

<sup>4</sup> The United States Supreme Court has determined the two phases of a capital case are comparable to two separate trials. *Strickland*, 466 U.S. at 686.



Repper, Pagan,  
Cook, Ltd.  
Attorneys at Law  
1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

Respectfully submitted,

*Melynda Cook-Reich*

Melynda Cook-Reich (SC# 0066596)  
REPPER, PAGAN, COOK  
Attorney for Defendant  
1501 First Avenue  
Middletown, OH 45044  
(513) 424-1823; Fax (513)424-3135

and

*Randall Porter* *(MCN authz)*

Randall Porter (SC#0005835)  
Assistant State Public Defender  
Office of the Ohio Public Defender  
250 East Broad Street, Suite 1400  
Columbus, Ohio 43215  
(614) 466-5394 (Voice)  
(614) 644-0703 (Facsimile)  
PorterR@OPD.state.OH.US

COUNSEL FOR VON CLARK DAVIS

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was delivered via hand delivery to Daniel G. Eichel, Assistant Butler County Prosecuting Attorney, and Michael A. Oster, Jr. Assistant Butler County Prosecuting Attorney by leaving same at the Office of the Butler County Prosecuting Attorney, 11<sup>th</sup> Floor, 315 High Street, Hamilton, Ohio 45011, on this day August 5th, 2009.

*Melynda Cook-Reich*

Melynda Cook-Reich (SC# 0066596)

  
Repper, Pagan,  
Cook, Ltd.  
Attorneys at Law  
1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

FILED

CINDY CARPENTER

CLERK OF COURTS

2009 AUG 19 AM 9:45

IMAGED

**WITNESS INFORMATION**

CINDY CARPENTER  
BUTLER COUNTY  
CLERK OF COURTS

NAME: Scott Nowack

ADDRESS: c/o Ohio State Penitentiary  
878 Coitsville Hubbard Rd.

CITY: Youngstown

STATE: OH

ZIP: 44505-4635

Today's Date: August 7, 2009 Case No.: CR 1983-12-0614

Plaintiff: State of Ohio vs. Defendant: Von Clark Davis

**PRAECIPE FOR SUBPOENA  
Criminal- Trial and Duces Tecum  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

**TYPE OF SERVICE:**

Certified Mail  Personal Service by Butler County Sheriff

Appointed Process Server  Foreign County Sheriff

Attorney Service

The above named Witness is commanded to appear in the Common Pleas Court of Butler County, Ohio at the Government Services Center, 3<sup>rd</sup> Floor, 315 High Street, Hamilton, Ohio 45011 as follows:

**DATE: 9/8/09 through 9/11/09**

**TIME: 9:00 a.m.  
until released by attorney.**

**JUDGE: Nastoff**

**THE WITNESS IS ORDERED TO BRING THE FOLLOWING DOCUMENTS:**

Certified copies of the Institutional Summary Report of Von Clark Davis (Inmate #A-179828) dated 4/27/09.

**REQUESTING ATTORNEY**

Name: Randall Porter  
Office of the Ohio Public Defender  
250 East Broad Street, Suite 1400  
Columbus, Ohio 43215  
(614) 466-5394 (Voice)  
(614) 644-0703 (Facsimile)

CINDY CARPENTER

CLERK OF COURTS

**WITNESS INFORMATION**

NAME: Cynthia Mausser  
ADDRESS: c/o Ohio Parole Board  
770 West Broad Street  
CITY: Columbus

STATE: OH

ZIP: 43222

Today's Date: August 7, 2009

Case No.: CR 1983-12-0614

Plaintiff: State of Ohio vs.

Defendant: Von Clark Davis

**PRAECIPE FOR SUBPOENA  
Criminal- Trial  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

**TYPE OF SERVICE:**

Certified Mail  Personal Service by Butler County Sheriff  
 Appointed Process Server  Foreign County Sheriff  
XXX Attorney Service

The above named Witness is commanded to appear in the Common Pleas Court of Butler County, Ohio at the Government Services Center, 3<sup>rd</sup> Floor, 315 High Street, Hamilton, Ohio 45011 as follows:

**DATE: 9/8/09 through 9/11/09**

**TIME: 9:00 a.m.  
until released by attorney.**

**JUDGE: Nastoff**

THE WITNESS IS ORDERED TO BRING THE FOLLOWING DOCUMENTS:

**REQUESTING ATTORNEY**

Name: Randall Porter  
Office of the Ohio Public Defender  
250 East Broad Street, Suite 1400  
Columbus, Ohio 43215  
(614) 466-5394 (Voice)  
(614) 644-0703 (Facsimile)

**CINDY CARPENTER**

**CLERK OF COURTS**

**LED**

**WITNESS INFORMATION**

2009 AUG 19 AM 9:45

NAME: Carol A. Smith

**IN AGED**

ADDRESS: [REDACTED]

*Attn: Clerk  
BUTLER COUNTY  
CLERK OF COURTS*

CITY: Forest Park

STATE: OH

ZIP: 45240

Today's Date: August 7, 2009 Case No.: CR 1983-12-0614

Plaintiff: State of Ohio vs. Defendant: Von Clark Davis

**PRAECIPE FOR SUBPOENA  
Criminal- Trial  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

**TYPE OF SERVICE:**

Certified Mail  Personal Service by Butler County Sheriff

Appointed Process Server  Foreign County Sheriff

Attorney Service

The above named Witness is commanded to appear in the Common Pleas Court of Butler County, Ohio at the Government Services Center, 3<sup>rd</sup> Floor, 315 High Street, Hamilton, Ohio 45011 as follows:

**DATE: 9/8/09 through 9/11/09**

**TIME: 9:00 a.m. each day  
until released by attorney.**

**JUDGE: Nastoff**

**THE WITNESS IS ORDERED TO BRING THE FOLLOWING DOCUMENTS:**

**REQUESTING ATTORNEY**

Name: Melynda Cook-Reich  
Repper, Pagan, Cook Ltd.  
1501 First Avenue  
Middletown, OH 45044  
513-424-1823; Fax (513) 424-3135

LED

CINDY CARPENTER

CLERK OF COURTS

2009 AUG 19 AM 9:44

IN AGED

**WITNESS INFORMATION**

BUTLER COUNTY  
CLERK OF COURTS

NAME: Jerome Stineman

ADDRESS: [REDACTED]

CITY: Cincinnati STATE: OH ZIP: 45208

Today's Date: August 18, 2009 Case No.: CR 1983-12-0614

Plaintiff: State of Ohio vs. Defendant: Von Clark Davis

**PRAECIPE FOR SUBPOENA  
Criminal- Trial  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

**TYPE OF SERVICE:**

Certified Mail  Personal Service by Butler County Sheriff

Appointed Process Server  Foreign County Sheriff

Attorney Service

The above named Witness is commanded to appear in the Common Pleas Court of Butler County, Ohio at the Government Services Center, 3<sup>rd</sup> Floor, 315 High Street, Hamilton, Ohio 45011 as follows:

**DATE: 9/8/09 through 9/11/09**

**TIME: 9:00 a.m. each day  
until released by attorney.**

**JUDGE: Nastoff**

**THE WITNESS IS ORDERED TO BRING THE FOLLOWING DOCUMENTS:**

**REQUESTING ATTORNEY**

Name: Melynda Cook-Reich  
Repper, Pagan, Cook Ltd.  
1501 First Avenue  
Middletown, OH 45044  
513-424-1823; Fax (513) 424-3135

**CINDY CARPENTER**  
**WITNESS INFORMATION**

**CLERK OF COURTS**

**INAGED**

**FILED**

*2009 AUG 19 AM 9:45*

*BUTLER COUNTY  
CLERK OF COURTS*

NAME: Alluster Tipton

ADDRESS: [REDACTED]

CITY: Forest Park

STATE: OH

ZIP: 45240

Today's Date: August 7, 2009 Case No.: CR 1983-12-0614

Plaintiff: State of Ohio vs. Defendant: Von Clark Davis

**PRAECIPE FOR SUBPOENA  
Criminal- Trial  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

TYPE OF SERVICE:

Certified Mail  Personal Service by Butler County Sheriff

Appointed Process Server  Foreign County Sheriff

Attorney Service

The above named Witness is commanded to appear in the Common Pleas Court of Butler County, Ohio at the Government Services Center, 3<sup>rd</sup> Floor, 315 High Street, Hamilton, Ohio 45011 as follows:

**DATE: 9/8/09 through 9/11/09**

**TIME: 9:00 a.m. each day  
until released by attorney.**

**JUDGE: Nastoff**

THE WITNESS IS ORDERED TO BRING THE FOLLOWING DOCUMENTS:

**REQUESTING ATTORNEY**

Name: Melynda Cook-Reich

Repper, Pagan, Cook Ltd.

1501 First Avenue

Middletown, OH 45044

513-424-1823; Fax (513) 424-3135

IMAGED

CINDY CARPENTER

CLERK OF COURTS

FILED

**WITNESS INFORMATION**

2009 AUG 19 AM 9:44

BUTLER COUNTY  
CLERK OF COURTS

NAME: Sherry Davis  
ADDRESS: [REDACTED]  
CITY: Forest Park STATE: OH ZIP: 45240

Today's Date: August 7, 2009 Case No.: CR 1983-12-0614

Plaintiff: State of Ohio vs. Defendant: Von Clark Davis

**PRAECIPE FOR SUBPOENA  
Criminal- Trial  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

**TYPE OF SERVICE:**

Certified Mail  Personal Service by Butler County Sheriff  
 Appointed Process Server  Foreign County Sheriff  
 Attorney Service

The above named Witness is commanded to appear in the Common Pleas Court of Butler County, Ohio at the Government Services Center, 3<sup>rd</sup> Floor, 315 High Street, Hamilton, Ohio 45011 as follows:

**DATE: 9/8/09 through 9/11/09**

**TIME: 9:00 a.m. each day  
until released by attorney.**

**JUDGE: Nastoff**

**THE WITNESS IS ORDERED TO BRING THE FOLLOWING DOCUMENTS:**

REQUESTING ATTORNEY  
Name: Melynda Cook-Reich  
Repper, Pagan, Cook Ltd.  
1501 First Avenue  
Middletown, OH 45044  
513-424-1823; Fax (513) 424-3135

IN AGED

CINDY CARPENTER

CLERK OF COURTS

**WITNESS INFORMATION**

NAME: Rick Rotundo

FILED  
2009 AUG 19 AM 9:44

ADDRESS: [REDACTED]

CITY: Loveland

STATE: OHIO

ZIP: 45140

Today's Date: August 7, 2009

Case No.: CR 1983-12-0614

Plaintiff: State of Ohio vs.

Defendant: Von Clark Davis

**PRAECIPE FOR SUBPOENA**

**Criminal- Trial**

**COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

TYPE OF SERVICE:

Certified Mail  Personal Service by Butler County Sheriff

Appointed Process Server  Foreign County Sheriff

Attorney Service

The above named Witness is commanded to appear in the Common Pleas Court of Butler County, Ohio at the Government Services Center, 3<sup>rd</sup> Floor, 315 High Street, Hamilton, Ohio 45011 as follows:

**DATE: 9/8/09 through 9/11/09**

**TIME: 9:00 a.m.  
until released by attorney.**

**JUDGE: Nastoff**

THE WITNESS IS ORDERED TO BRING THE FOLLOWING DOCUMENTS:

**REQUESTING ATTORNEY**

Name: Randall Porter  
Office of the Ohio Public Defender  
250 East Broad Street, Suite 1400  
Columbus, Ohio 43215  
(614) 466-5394 (Voice)  
(614) 644-0703 (Facsimile)

**CINDY CARPENTER**  
**WITNESS INFORMATION**

**CLERK OF COURTS**

**INAGED**

2009 AUG 19 AM 9:45

BUTLER COUNTY  
CLERK OF COURTS

NAME: Victor Davis

ADDRESS: [REDACTED]

CITY: Hamilton

STATE: OH

ZIP: 45013

Today's Date: August 7, 2009 Case No.: CR 1983-12-0614

Plaintiff: State of Ohio vs. Defendant: Von Clark Davis

**PRAECIPE FOR SUBPOENA**  
**Criminal- Trial**  
**COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

**TYPE OF SERVICE:**

Certified Mail  Personal Service by Butler County Sheriff

Appointed Process Server  Foreign County Sheriff

Attorney Service

The above named Witness is commanded to appear in the Common Pleas Court of Butler County, Ohio at the Government Services Center, 3<sup>rd</sup> Floor, 315 High Street, Hamilton, Ohio 45011 as follows:

**DATE: 9/8/09 through 9/11/09**

**TIME: 9:00 a.m. each day  
until released by attorney.**

**JUDGE: Nastoff**

**THE WITNESS IS ORDERED TO BRING THE FOLLOWING DOCUMENTS:**

**REQUESTING ATTORNEY**

Name: Melynda Cook-Reich  
Repper, Pagan, Cook Ltd.  
1501 First Avenue  
Middletown, OH 45044  
513-424-1823; Fax (513) 424-3135

*-11-20*  
CINDY CARPENTER CLERK OF COURTS

**WITNESS INFORMATION**

NAME: Elliot Butch Davis

ADDRESS: [REDACTED]

CITY: Hamilton

*19 AM 9:45*  
BUTLER COUNTY  
CLERK OF COURTS

STATE: OH ZIP: 45011

Today's Date: August 7, 2009 Case No.: CR 1983-12-0614

Plaintiff: State of Ohio vs. Defendant: Von Clark Davis

IMAGED

**PRAECIPE FOR SUBPOENA  
Criminal- Trial  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

**TYPE OF SERVICE:**

Certified Mail  Personal Service by Butler County Sheriff

Appointed Process Server  Foreign County Sheriff

Attorney Service

The above named Witness is commanded to appear in the Common Pleas Court of Butler County, Ohio at the Government Services Center, 3<sup>rd</sup> Floor, 315 High Street, Hamilton, Ohio 45011 as follows:

**DATE: 9/8/09 through 9/11/09**

**TIME: 9:00 a.m. each day  
until released by attorney.**

**JUDGE: Nastoff**

THE WITNESS IS ORDERED TO BRING THE FOLLOWING DOCUMENTS:

REQUESTING ATTORNEY  
Name: Melynda Cook-Reich  
Repper, Pagan, Cook Ltd.  
1501 First Avenue  
Middletown, OH 45044  
513-424-1823; Fax (513) 424-3135

IN THE COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO

IMAGED  
FILED

2009 AUG 19 AM 9:46

CINDY CAHILLER  
BUTLER COUNTY  
CLERK OF COURTS

STATE OF OHIO, :  
Plaintiff, : Case No. CR 1983-12-0614  
vs. :  
: :  
VON CLARK DAVIS : Judge Nastoff  
Defendant. :  
\_\_\_\_\_

**OUT OF STATE WITNESS APPLICATION**

---

Von Clark Davis moves the Court to issue a Certificate to be presented to a Judge of the Montgomery Circuit Court in Rockville Maryland, pursuant to §2939.27 of the Ohio Revised Code, requiring the attendance of Delbert Flowers, [REDACTED], Gaithersburg, Maryland, 20878-3579, as a material witness in the capital resentencing hearing about in Butler County, Ohio. The presence and attendance of said Delbert Flowers will be required at 9:00 a.m. on September 9, 2009, until the conclusion of required testimony that day. The State of Maryland has enacted the uniform law entitled, Summoning Witnesses to Testify in Another State, Maryland Code Ann § 9-302 (2009).

It is not recommended that the aforesaid witness be taken into immediate custody.

  
Repper, Pagan,  
Cook, Ltd.  
Attorneys at Law  
1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

303

Respectfully submitted,

*Melynda Cook-Reich*

Melynda Cook-Reich (SC#0066596)  
REPPER, PAGAN, & COOK  
1501 First Avenue  
Middletown, OH 45044  
(513) 424-1823 (Voice)  
(513)424-3135 (Facsimile)

and

*Randall Porter* <sup>mc</sup>

Randall Porter (SC#0005835)  
Assistant State Public Defender  
Office of the Ohio Public Defender  
250 East Broad Street, Suite 1400  
Columbus, Ohio 43215  
(614) 466-5394 (Voice)  
(614) 644-0703 (Facsimile)  
[PorterR@OPD.state.OH.US](mailto:PorterR@OPD.state.OH.US)

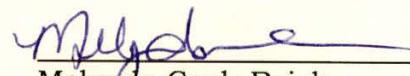
COUNSEL FOR VON CLARK DAVIS



Repper, Pagan,  
Cook, Ltd.  
Attorneys at Law  
1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was delivered via hand delivery to Daniel G. Eichel, Assistant Butler County Prosecuting Attorney, and Michael A. Oster, Jr. Assistant Butler County Prosecuting Attorney by leaving same at the Office of the Butler County Prosecuting Attorney, 11<sup>th</sup> Floor, 315 High Street, Hamilton, Ohio 45011, on this day August 18<sup>th</sup>, 2009.



Melynda Cook-Reich



**Repper, Pagan,  
Cook, Ltd.**  
Attorneys at Law  
1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

STATE OF OHIO : CASE NO. CR 1983-12-0614  
Plaintiff : FILED STATE OF OHIO : IMAGED  
vs. : COUNTY OF BUTLER  
VON CLARK DAVIS : COURT OF COMMON PLEAS  
Defendant : (Nastoff, J.)  
: CINDY CARPENTER  
: BUTLER COUNTY  
: CLERK OF COURTS  
: STATE'S SUPPLEMENTAL DISCOVERY  
: (8/21/09)

Now comes the Prosecuting Attorney, and supplementing its previous discovery, discloses the following:

- A. STATEMENTS DISCOVERABLE, Criminal Rule 16(B)(1)(a):  
No new statements
- B. DEFENDANT'S PRIOR CRIMINAL RECORD, Criminal Rule 16(B)(1)(b):  
The defendant's known criminal record has been previously disclosed.
- C. DOCUMENTS AND TANGIBLE EVIDENCE, Criminal Rule 16(B)(1)(C):  
Medical Illustrations of Wounds To Ernestine Davis(8).
- D. REPORTS OF EXAMINATIONS OR TESTS, Criminal Rule 16(B)(1)(d):  
Have all been previously disclosed.
- E. WITNESSES' NAMES AND ADDRESSES, Criminal Rule 16(B)(1)(e):  
The Prosecuting Attorney intends to call the following at trial:  
Lisa Link (address and curriculum vitae, if needed, to be supplemented)  
KNOWN FELONY RECORD OF CONVICTION FOR WITNESSES:
- F. FAVORABLE EVIDENCE DISCOVERABLE, Criminal Rule 16(B)(1)(f):  
There is no evidence material to guilt or punishment and favorable to this defendant known to the Prosecuting Attorney as to this case.

PROSECUTING ATTORNEY, BUTLER COUNTY, OHIO  
P.O. BOX 515, HAMILTON, OH 45012-0515

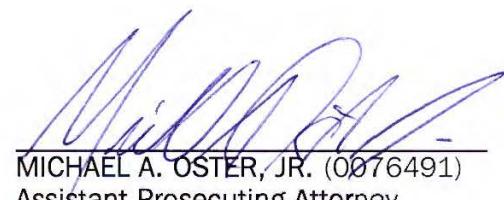
304

Respectfully submitted,  
ROBIN N. PIPER (0023205)  
Butler County Prosecuting Attorney

  
MICHAEL A. OSTER, JR. (0076491)  
Chief, Appellate Division  
Government Services Center  
315 High Street, 11<sup>th</sup> Floor  
Hamilton, Ohio 45012-0515  
Telephone: (513) 887-3474

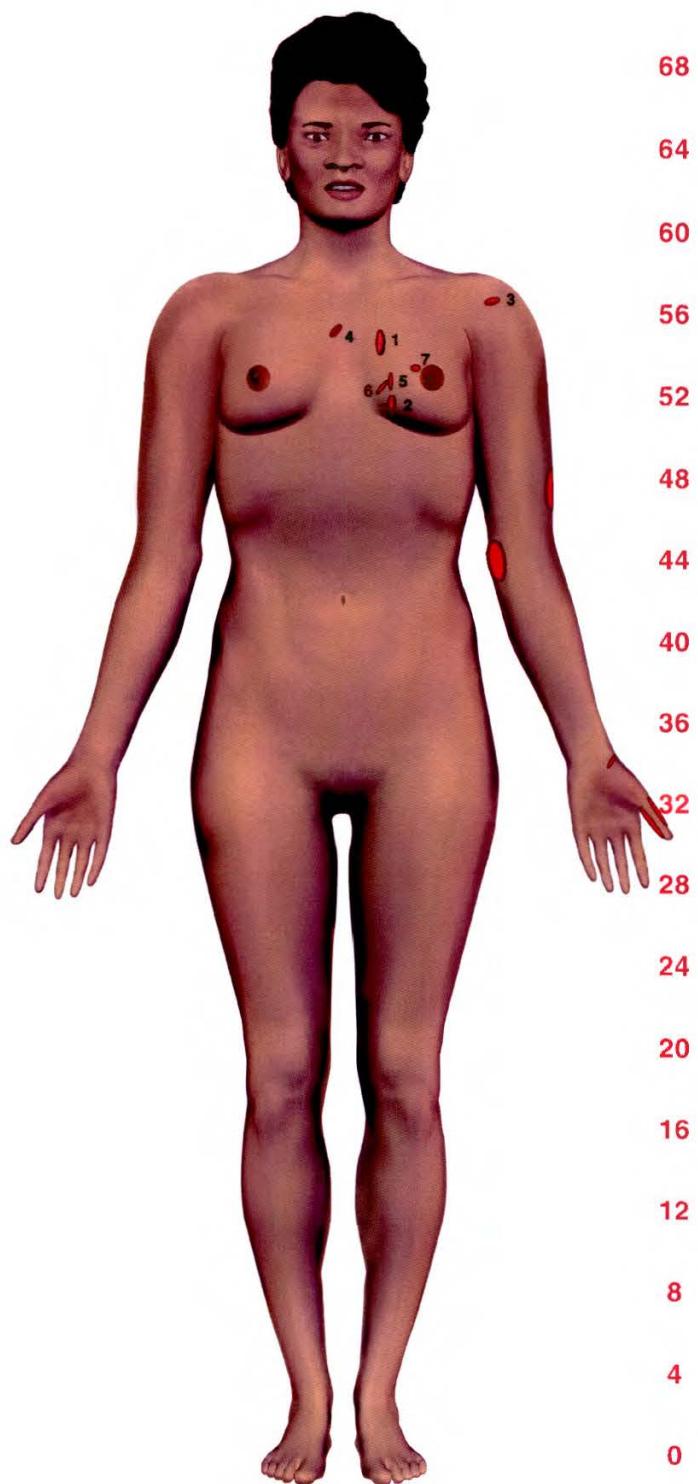
CERTIFICATE OF SERVICE

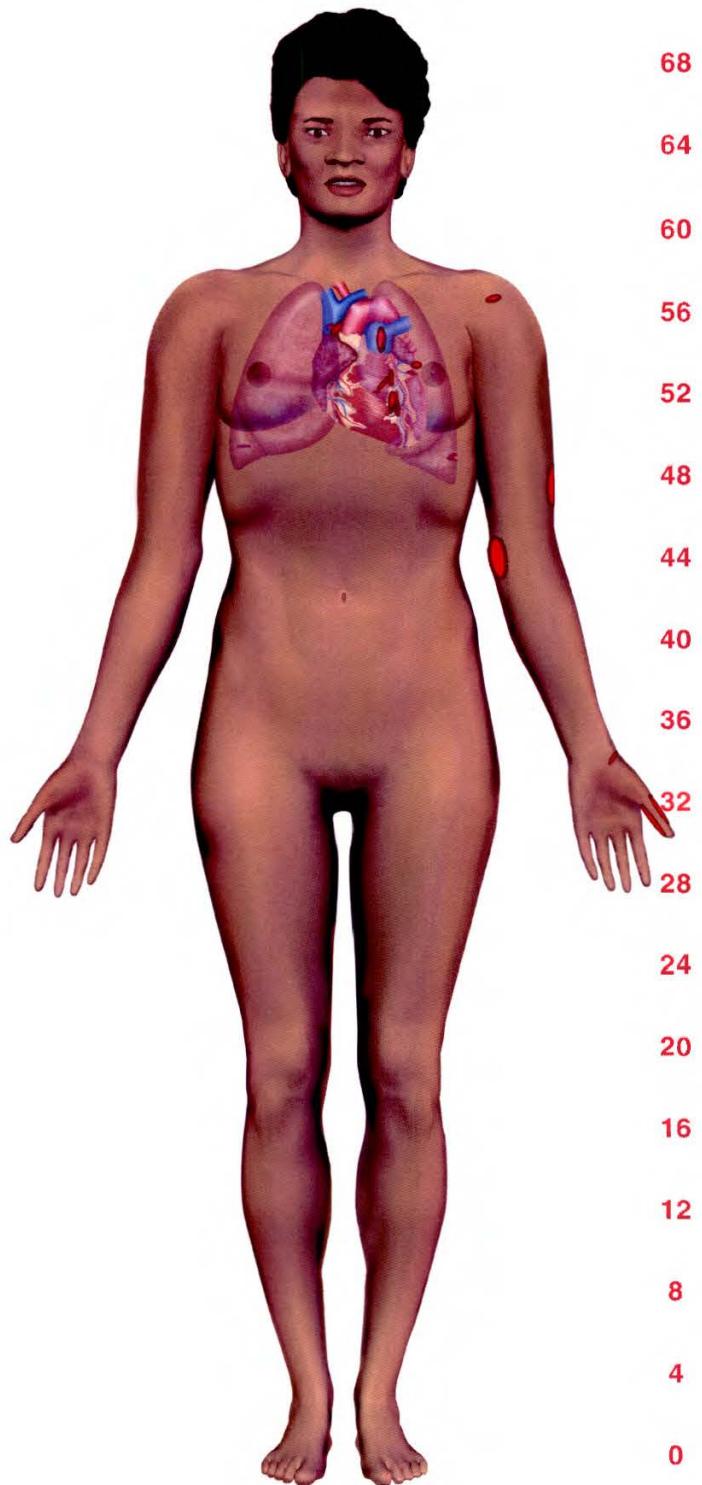
This is to certify that a copy of the foregoing Memorandum has been sent by ordinary U.S. mail and FAX to Attorneys for Defendant: Randall L. Porter, 8 East Long Street, 11<sup>th</sup> Floor, Columbus, OH 43215, and Melynda W. Cook-Reich, 1501 First Avenue, Middletown, OH 45044, on this 21st day of August, 2009.

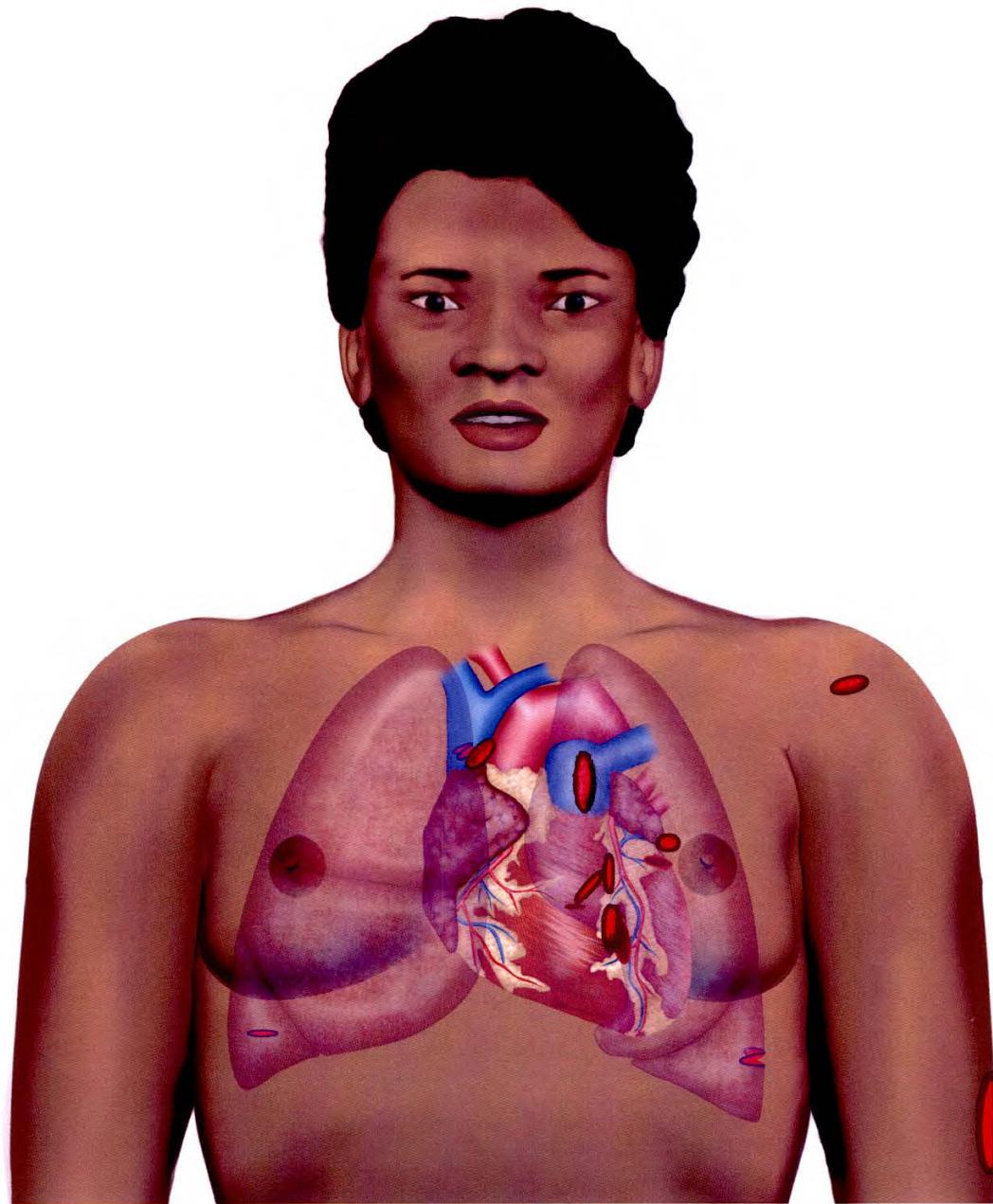
  
MICHAEL A. OSTER, JR. (0076491)  
Assistant Prosecuting Attorney

PROSECUTING ATTORNEY, BUTLER COUNTY, OHIO

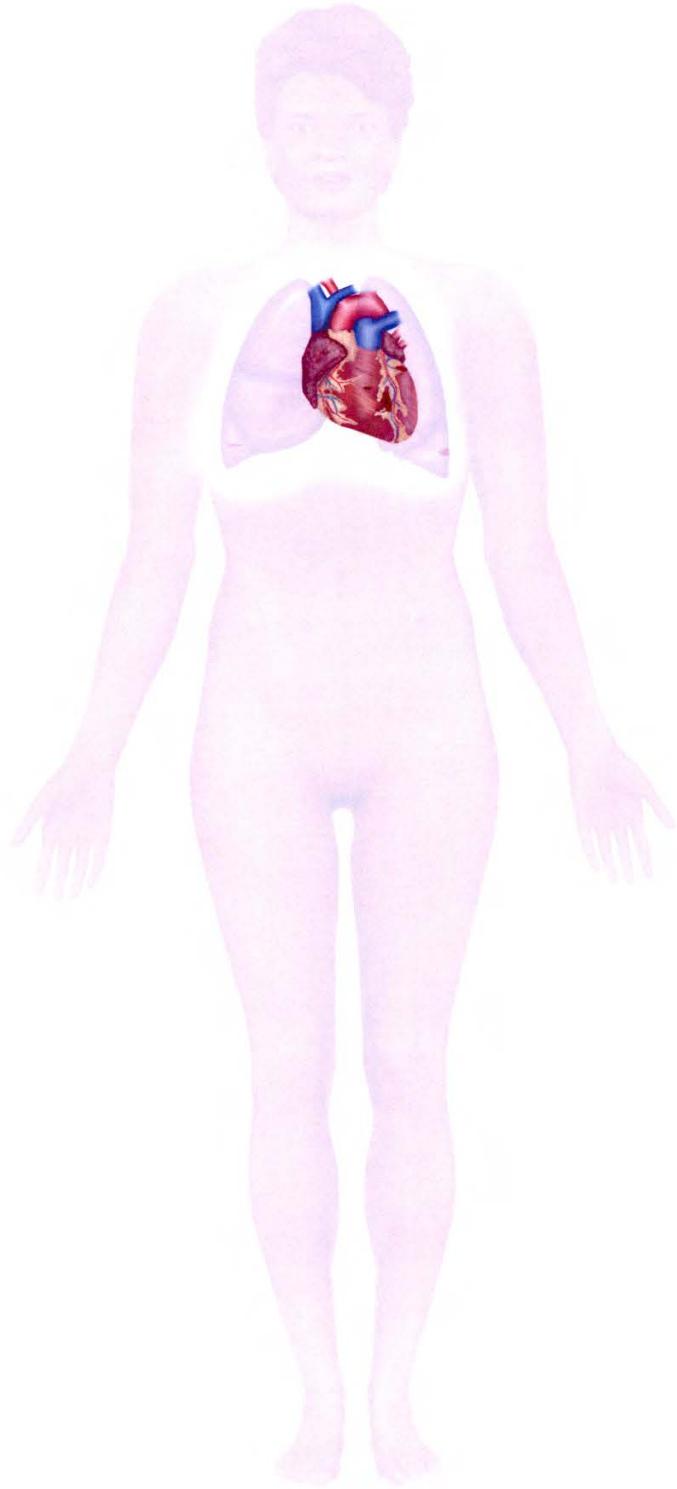
P.O. BOX 515, HAMILTON, OH 45012-0515

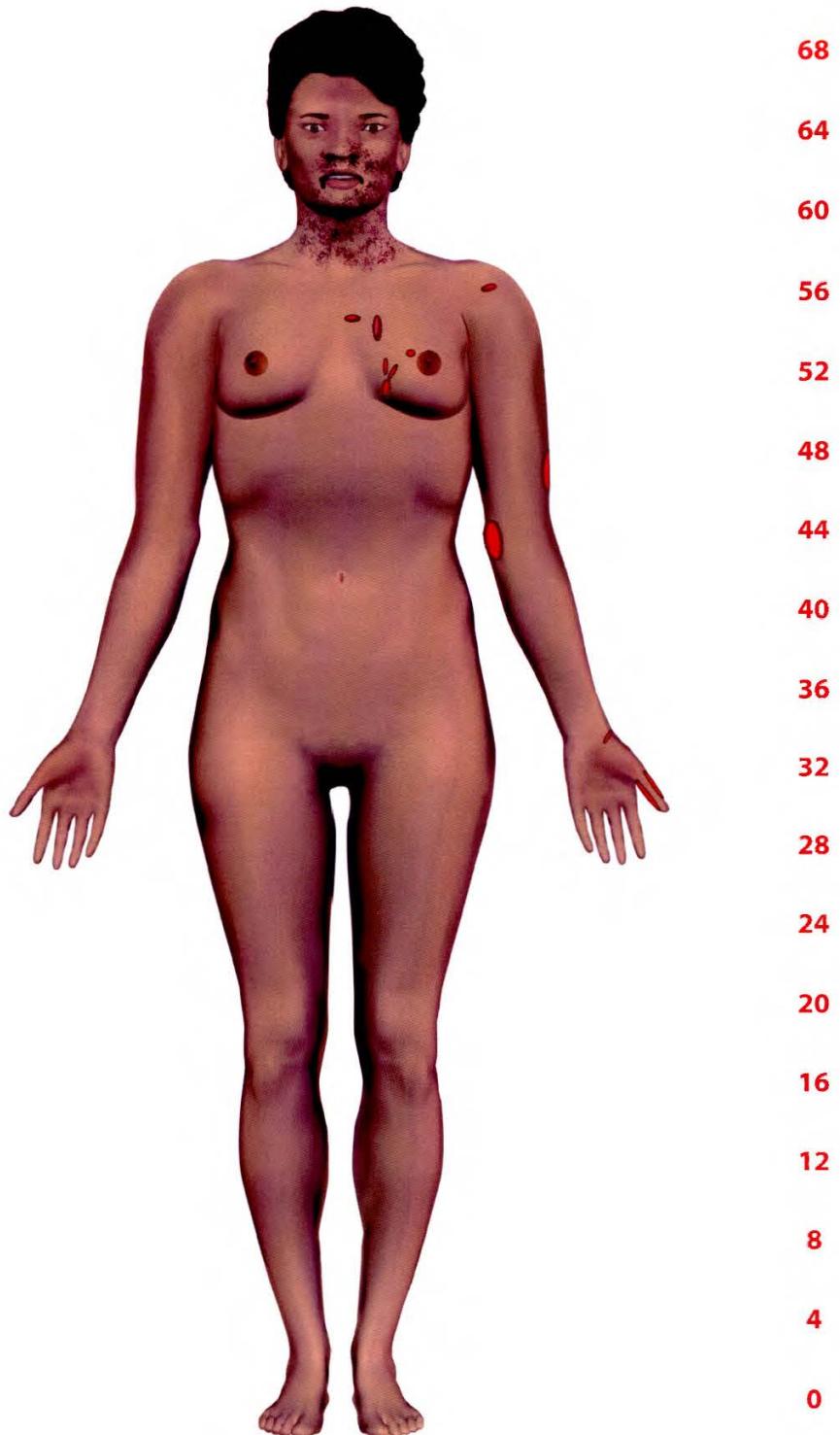


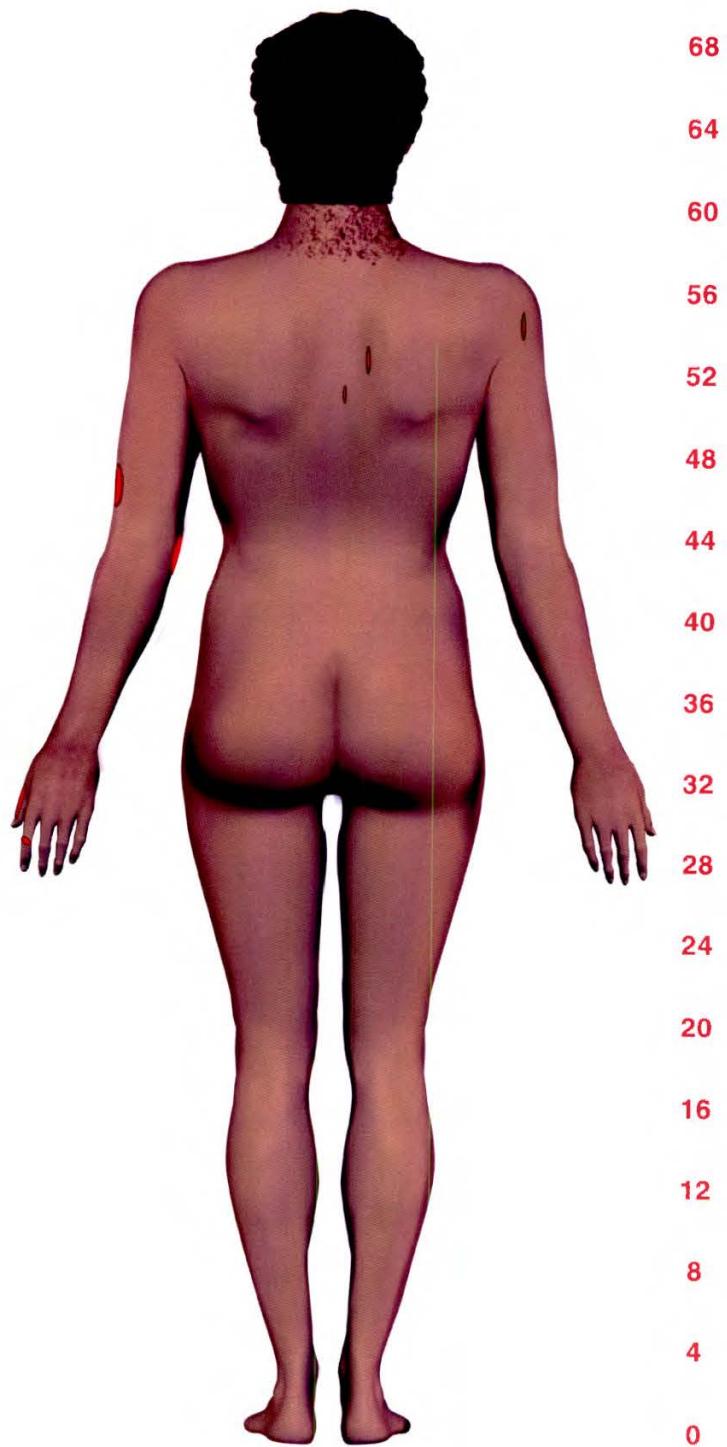


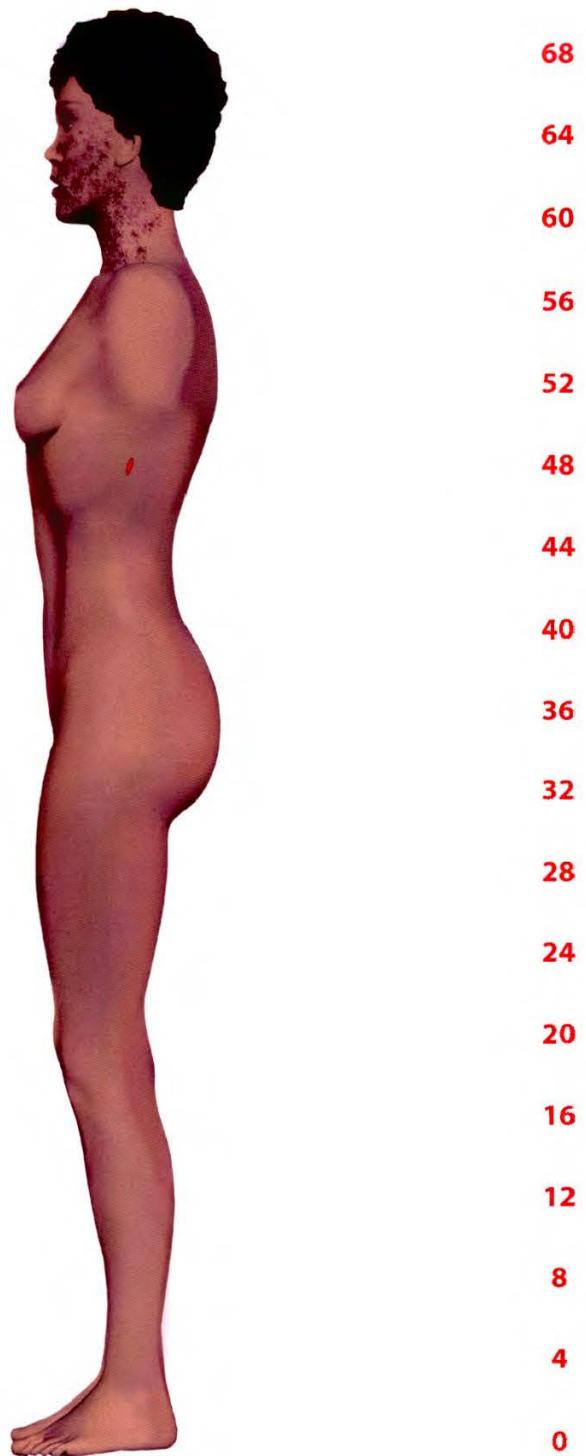












IMAGED

STATE OF OHIO : CASE NO. CR 1983-12-0614  
Plaintiff : STATE OF OHIO  
vs. 2009 AUG 26 AM 10:29 : COUNTY OF BUTLER  
VON CLARK DAVIS : COURT OF COMMON PLEAS  
Defendant : (Nastoff, J.)  
STATE'S SUPPLEMENTAL DISCOVERY  
(8/26/09)

.....

Now comes the Prosecuting Attorney, and supplementing its previous discovery, discloses the following:

- A. **STATEMENTS DISCOVERABLE**, Criminal Rule 16(B)(1)(a):  
No new statements
- B. **DEFENDANT'S PRIOR CRIMINAL RECORD**, Criminal Rule 16(B)(1)(b):  
The defendant's known criminal record has been previously disclosed.
- C. **DOCUMENTS AND TANGIBLE EVIDENCE**, Criminal Rule 16(B)(1)(C):  
Have all been previously disclosed.
- D. **REPORTS OF EXAMINATIONS OR TESTS**, Criminal Rule 16(B)(1)(d):  
Have all been previously disclosed.
- E. **WITNESSES' NAMES AND ADDRESSES**, Criminal Rule 16(B)(1)(e):  
The Prosecuting Attorney intends to call the following at trial:  
  
Lisa Link (curriculum vitae to be supplemented)  
[REDACTED]  
Cincinnati, Ohio 45329  
  
**KNOWN FELONY RECORD OF CONVICTION FOR WITNESSES:**
- F. **FAVORABLE EVIDENCE DISCOVERABLE**, Criminal Rule 16(B)(1)(f):  
There is no evidence material to guilt or punishment and favorable to this defendant known to the Prosecuting Attorney as to this case.

PROSECUTING ATTORNEY, BUTLER COUNTY, OHIO

P.O. BOX 515, HAMILTON, OH 45012-0515

VON CLARK DAVIS v. WARDEN  
CASE NO. 2:16-cv-00495  
APPENDIX - Page 4840

Respectfully submitted,  
ROBIN N. PIPER (0023205)  
Butler County Prosecuting Attorney

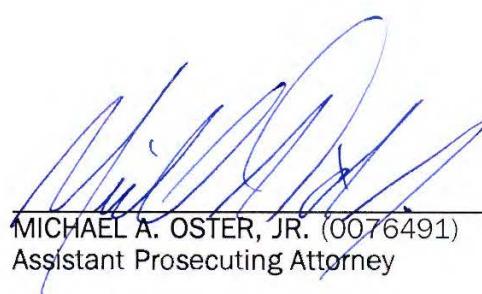


MICHAEL A. OSTER, JR. (0076491)  
Chief, Appellate Division  
Government Services Center  
315 High Street, 11<sup>th</sup> Floor  
Hamilton, Ohio 45012-0515  
Telephone: (513) 887-3474

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Memorandum has been sent by ordinary U.S. mail and FAX to Attorneys for Defendant: Randall L. Porter, 250 East Broad St., Suite 1400, Columbus, OH 43215, and Melynda W. Cook-Reich, 1501 First Avenue, Middletown, OH 45044, on this 26th day of August, 2009.

Fax # RP (614) 644-0708  
MC-R (513) 424-3135



MICHAEL A. OSTER, JR. (0076491)  
Assistant Prosecuting Attorney

PROSECUTING ATTORNEY, BUTLER COUNTY, OHIO

P.O. Box 515, HAMILTON, OH 45012-0515

STATE OF OHIO

Plaintiff

vs.

VON CLARK DAVIS

Defendant

COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO

CASE NO. CR1983-12-0614

NASTOFF, J.

PRAEPIPE FOR SUBPOENA FOR STATE'S  
WITNESS(ES) & SENTENCE HEARING

TO THE CLERK:

Please issue Subpoena(s) for the following person(s), or entities:

Charles Furmon, [REDACTED] Hamilton, OH 45013

Dr. Joseph H. Brandabur, Deputy Coroner, Butler County Coroner's Office, 315  
High Street, 6<sup>th</sup> Floor, Hamilton, OH 45011

Lisa Link, [REDACTED], Cincinnati, OH 45239

to appear and present testimony on behalf of the Prosecution at the Sentence Hearing in  
the above-captioned matter, in the Courtroom of Judge Andrew Nastoff, Butler County  
Government Services Building, 315 High St., Hamilton, OH 45011, on September 08,  
2009, at 9:00AM.

ROBIN PIPER  
PROSECUTING ATTORNEY  
BUTLER COUNTY, OHIO

PLEASE RETURN TO THE PROSECUTOR'S OFFICE ASAP FOR SERVICE. THANKS

PROSECUTING ATTORNEY, BUTLER COUNTY, OHIO  
P.O. BOX 515, HAMILTON, OH 45012-0515

CINDY CARPENTER



CLERK OF COURTS

**WITNESS SUBPOENA COPY:**  
**LISA LINK**

**CINTI, OH 45239**

Date: August 28, 2009

Case No.: CR 1983 12 0614  
STATE OF OHIO VS VON CLARK DAVIS

**SUBPOENA SERVED BY PROCESS SERVER  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

TYPE OF SUBPOENA: SENTENCE HEARING

To the above named Witness: You are hereby commanded to appear in the Common Pleas Court of Butler County Ohio at the Government Services Center, 315 High Street, 3<sup>RD</sup> Floor, Hamilton, Ohio 45011.

DATE: SETPEMBER 8 2009

TIME: 9:00 AM

JUDGE: NASTOFF

You are required to attend and give testimony on behalf of the plaintiff/defendant in the above captioned case under penalty of law.

To apply for payment for your services as a witness after testimony, bring this subpoena to the office of the Butler County Clerk of Courts.

CINDY CARPENTER  
Butler County Clerk of Courts

REQUESTING ATTORNEY:  
NAME: ROBIN PIPER  
ADDRESS: 315 HIGH ST  
CITY& STATE: HAMILTON OH  
ZIP: 45011  
PHONE: (513)887-3474

By: SHONDA ERTEL  
Deputy Clerk

**WITNESS CERTIFICATION**

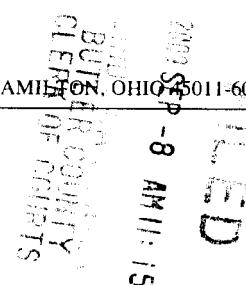
I attest that I appeared to give testimony in the above captioned case. I was present in the Court of Common Pleas for \_\_\_\_\_ days. As an out of county witness, I traveled 20 miles from the city of CINCINNATI in the State OHIO.

SIGNATURE:

*Witness*

GOVERNMENT SERVICES CENTER • 315 HIGH STREET • SUITE 550 • HAMILTON, OHIO 45011-6016

BUTLER COUNTY CLERK OF COURTS  
[www.butlercountyclerk.org](http://www.butlercountyclerk.org)



VON CLARK DAVIS v. WARDEN  
CASE NO. 2:16-cv-00495  
APPENDIX - Page 4843

IMAGED

IN THE COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO

ED

2008 AUG 28 AM 11:37

STATE OF OHIO, : :

Plaintiff, : Case No. CR 1983-12-0614

vs. : :

:

VON CLARK DAVIS : Judge Nastoff

Defendant. : :

CERTIFICATE UNDER UNIFORM ACT TO  
SECURE THE ATTENDANCE OF WITNESS FROM  
WITHOUT A STATE IN CRIMINAL PROCEEDINGS

Upon application of Von Clark Davis, pursuant to R.C. §2939.27, the Uniform Act To Secure The Attendance Of Witnesses From Without A State In Criminal Proceedings, the Court does issue the following CERTIFICATE under seal of this Court, pursuant to said statute and states the following, to-wit:

1. That Delbert Flowers is, to the best of the knowledge and belief of the undersigned, now present in the State of Maryland, Montgomery County and resides at [REDACTED] Gaithersburg, Maryland.

2. That this action is a criminal proceeding and is currently pending in the Butler County Court of Common Pleas.

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3. That said Delbert Flowers is a material witness and required by the defense in order to fairly present its case for Von Clark Davis.

4. That said witness will be required to be in attendance for one day on September 9, 2009 at 9:00 a.m. in the Butler County Court of Common Pleas, Court, the Courtroom of Judge Nastoff, Government Services Building, Third Floor, 315 High Street, Hamilton, Ohio, 45011.

5. That the Butler County Court of Common Pleas is a court of record having general jurisdiction to try felony cases arising within said County.

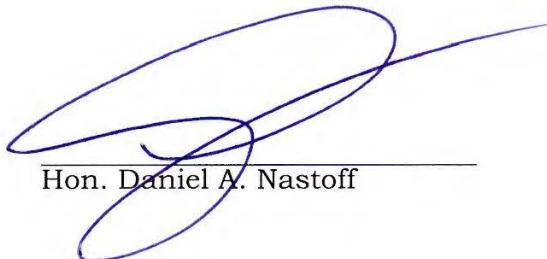
6. That the laws of the State of Ohio and of any other States through which Delbert Flowers as a witness may be required to pass by the ordinary course of travel, give him protection from arrest and the service of civil process in obedience to this summons directing him to attend and testify in the State of Ohio

7. Further, counsel for Von Clark Davis is directed to pay the mileage and attendance fee for Delbert Flowers.

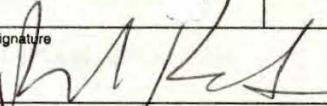
8. That this Certificate is directed to the Judge of the Montgomery Circuit Court in Montgomery County, Ohio.

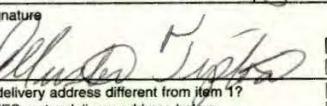
9. It is not recommended that the aforesaid witness be taken into immediate custody.

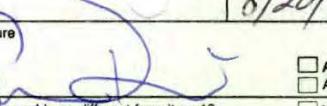
ENTER: 8/26/09

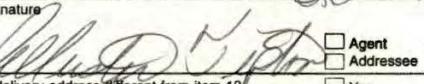


Hon. Daniel A. Nastoff

2. Article Number	COMPLETE THIS SECTION ON DELIVERY		
 <b>7160 3901 9848 5852 8903</b>		A. Received by (Please Print Clearly)	B. Date of Delivery
C. Signature			
 <b>X</b>			
<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee			
D. Is delivery address different from item 1? If YES, enter delivery address below:			
FILED BUTLER CO. COMMON PLEAS COURT L000 1982 78 <b>AUG 31 2009</b>			
CINDY CARPENTER CLERK OF COURTS			
CR 1983 12 0614 <span style="float: right;"><b>IMAGED</b></span>			

PS Form 3811, January 2005	Domestic Return Receipt		
2. Article Number	COMPLETE THIS SECTION ON DELIVERY		
 <b>7160 3901 9848 5852 8910</b>		A. Received by (Please Print Clearly)	B. Date of Delivery
 <b>X</b>			
<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee			
D. Is delivery address different from item 1? If YES, enter delivery address below:			
FILED BUTLER CO. L000 1982 76 COMMON PLEAS COURT <b>AUG 31 2009</b>			
CINDY CARPENTER CLERK OF COURTS			
CR 1983 12 0614 <span style="float: right;"><b>IMAGED</b></span>			

PS Form 3811, January 2005	Domestic Return Receipt		
2. Article Number	COMPLETE THIS SECTION ON DELIVERY		
 <b>7160 3901 9848 5852 8897</b>		A. Received by (Please Print Clearly)	B. Date of Delivery
 <b>X</b>			
<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee			
D. Is delivery address different from item 1? If YES, enter delivery address below:			
FILED BUTLER CO. L000 1982 77 COMMON PLEAS COURT <b>AUG 31 2009</b>			
CINDY CARPENTER CLERK OF COURTS			
CR 1983 12 0614 <span style="float: right;"><b>IMAGED</b></span>			

2. Article Number		COMPLETE THIS SECTION ON DELIVERY	
 <b>7160 3901 9848 5852 8934</b>		A. Received by (Please Print Clearly)	B. Date of Delivery
		 <b>8-30</b>	
3. Service Type <b>CERTIFIED MAIL</b>		C. Signature	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		<input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:			
CAROL A SMITH  <b>FILED BUTLER CO.</b> <b>FOREST PARK, OH 45240</b> <b>COMMON PLEAS COURT</b>			
<b>L000 1982 74</b> <b>AUG 31 2009</b>			
<b>IMAGED</b>			
CR 1983 12 0614 <b>CINDY CARPENTER</b> <b>CLERK OF COURTS</b>		<b>Domestic Return Receipt</b>	
PS Form 3811, January 2005			
2. Article Number		COMPLETE THIS SECTION ON DELIVERY	
 <b>7160 3901 9848 5852 8927</b>		A. Received by (Please Print Clearly)	B. Date of Delivery
		 <b>8-30-09</b>	
3. Service Type <b>CERTIFIED MAIL</b>		C. Signature	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		<input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:			
<b>FILED BUTLER CO.</b> JEROME STINEMAN  <b>COMMON PLEAS COURT</b> <b>CINCINNATI, OH 45208</b>			
<b>L000 1982 75</b> <b>AUG 31 2009</b>			
<b>IMAGED</b>			
CR 1983 12 0614 <b>CINDY CARPENTER</b> <b>CLERK OF COURTS</b>		<b>Domestic Return Receipt</b>	
PS Form 3811, January 2005			

STATE OF OHIO : CASE NO. CR 1983-12-0614  
Plaintiff : STATE OF OHIO  
vs. : COUNTY OF BUTLER  
CLERK OF COURTS : COURT OF COMMON PLEAS  
(Nastoff, J.)  
VON CLARK DAVIS : STATE'S SUPPLEMENTAL DISCOVERY  
Defendant : (8/31/09)

FILED  
CLERK OF COURTS  
BUTLER COUNTY  
CLERK OF COURTS

IMAGED

: : : : : : :

Now comes the Prosecuting Attorney, and supplementing its previous discovery, discloses the following:

- A. STATEMENTS DISCOVERABLE, Criminal Rule 16(B)(1)(a):  
No new statements
- B. DEFENDANT'S PRIOR CRIMINAL RECORD, Criminal Rule 16(B)(1)(b):  
The defendant's known criminal record has been previously disclosed.
- C. DOCUMENTS AND TANGIBLE EVIDENCE, Criminal Rule 16(B)(1)(C):  
Have all been previously disclosed.
- D. REPORTS OF EXAMINATIONS OR TESTS, Criminal Rule 16(B)(1)(d):  
Have all been previously disclosed.
- E. WITNESSES' NAMES AND ADDRESSES, Criminal Rule 16(B)(1)(e):  
The Prosecuting Attorney intends to call the following at trial:  
Lisa Link, Curriculum Vitae

KNOWN FELONY RECORD OF CONVICTION FOR WITNESSES:

- F. FAVORABLE EVIDENCE DISCOVERABLE, Criminal Rule 16(B)(1)(f):  
There is no evidence material to guilt or punishment and favorable to this defendant known to the Prosecuting Attorney as to this case.

PROSECUTING ATTORNEY, BUTLER COUNTY, OHIO

P.O. BOX 515, HAMILTON, OH 45012-0515

301

Respectfully submitted,  
ROBIN N. PIPER (0023205)  
Butler County Prosecuting Attorney

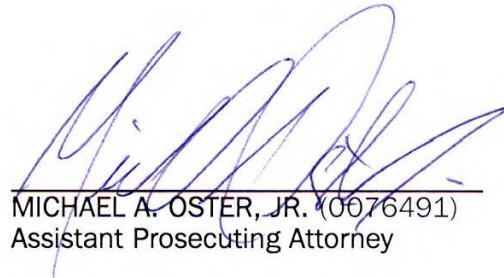


MICHAEL A. OSTER, JR. (0076491)  
Chief, Appellate Division  
Government Services Center  
315 High Street, 11<sup>th</sup> Floor  
Hamilton, Ohio 45012-0515  
Telephone: (513) 887-3474

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Memorandum has been sent by ordinary U.S. mail and FAX to Attorneys for Defendant: Randall L. Porter, 250 East Broad St., Suite 1400, Columbus, OH 43215, and Melynda W. Cook-Reich, 1501 First Avenue, Middletown, OH 45044, on this 31st day of August, 2009.

Fax # RP (614) 644-0708  
MC-R (513) 424-3135



MICHAEL A. OSTER, JR. (0076491)  
Assistant Prosecuting Attorney

PROSECUTING ATTORNEY, BUTLER COUNTY, OHIO

P.O. BOX 515, HAMILTON, OH 45012-0515

## Lisa Link

[REDACTED] Cincinnati, OH 45239

### EXPERIENCE

#### Lisa Link Illustration/Design

1999 - Present

##### Medical illustrator

- Textbook illustration for medical professionals
- Illustration depicting surgical procedures
- Scientific illustration for promotional purposes
- Illustration for medical journal submissions
- Medical legal illustration

##### Designer

- Promotional material
- Ad design
- Recruitment material for University of Cincinnati College of Medicine

#### Division of Plastic and Reconstructive Surgery, UC Physicians

2003 - Present

##### Medical illustrator

- Weekly conference presentation on upcoming cases
- Digital database maintenance

#### University of Cincinnati Art and Design

1998 - 1999

##### Medical illustrator

- Medical and scientific illustration for UC faculty and staff

#### University of Cincinnati Art and Design

1996 - 1998

##### Medical illustrator, paid internship

- Medical and scientific illustration for UC faculty and staff

### EDUCATION

#### Bachelor of Fine Arts

College of Design, Architecture, Art, and Planning; University of Cincinnati  
*Concentration in Drawing, Minor in Biology*

[REDACTED] · phone: [REDACTED] · mobile: [REDACTED]

IN THE COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO

FILED

2016 AUG 31 PM 3:35

CLAY CAMPBELL  
BUTLER COUNTY  
PROSECUTOR

STATE OF OHIO, :

Plaintiff, : Case No. CR 1983-12-0614

vs. :

:

VON CLARK DAVIS : Judge Nastoff

Defendant. :

---

DEFENDANT'S SUPPLEMENTAL ANSWER  
TO REQUEST FOR DISCOVERY

---

**NOW COMES** Defendant, by and through his undersigned counsel, and, responding to the State's Motion for Discovery, responds as follows:

**A. DOCUMENTS AND TANGIBLE OBJECTS, CRIMINAL RULE 16(C)(1)(a):**

1. Certified copy of birth certificate of Nicholas Elliot Davis
2. Certified copy of death certificate of Charles Richard Flowers
3. Certified copy of death certificate of Milton Flowers

WHEREFORE, the Defendant reserves the right to utilize any discovery provided by the State in its Answers of Discovery. Defendant reserves the right to supplement this response upon identification of additional evidence.

**B. REPORTS OF EXAMINATIONS OR TESTS, CRIMINAL RULE 16(B)(1)(d):**

WHEREFORE, the Defendant reserves the right to utilize any discovery provided by the State in its Answers of Discovery. Defendant reserves the right to supplement this response upon identification of additional evidence.



Repper, Pagan,  
Cook, Ltd.  
Attorneys at Law  
1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

208

**C. WITNESSES' NAMES AND ADDRESSES, CRIMINAL RULE 16(C)(1)(c):**

WHEREFORE, the Defendant reserves the right to utilize any discovery provided by the State in its Answers of Discovery. Defendant reserves the right to supplement this response upon identification of additional evidence.

Respectfully submitted,

Melynda Cook  
Melynda Cook-Reich (SC# 0066596)  
REPPER, PAGAN, COOK  
Attorney for Defendant  
1501 First Avenue  
Middletown, OH 45044  
(513) 424-1823; Fax (513)424-3135

and

Randall Porter *(mcn)*  
Randall Porter (SC#0005835)  
Assistant State Public Defender  
Office of the Ohio Public Defender  
250 East Broad Street, Suite 1400  
Columbus, Ohio 43215  
(614) 466-5394 (Voice)  
(614) 644-0703 (Facsimile)  
PorterR@OPD.state.OH.US

COUNSEL FOR VON CLARK DAVIS



**Repper, Pagan,  
Cook, Ltd.**  
Attorneys at Law  
1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was delivered via hand delivery to Daniel G. Eichel, First Assistant Butler County Prosecuting Attorney, and Michael A. Oster, Jr. Assistant Butler County Prosecuting Attorney by leaving same at the Office of the Butler County Prosecuting Attorney, 11<sup>th</sup> Floor, 315 High Street, Hamilton, Ohio 45011, on this day August 31, 2009.

Melynda Cook-Reich  
Melynda Cook-Reich (SC# 0066596)



**Repper, Pagan,  
Cook, Ltd.**  
Attorneys at Law  
1501 First Avenue  
Middletown, OH 45044  
Phone: 513.424.1823  
FAX: 513.424.3135

VERIFY ESSENCE OF ODH WATERMARK HOLD RIGHT TO VIEW

I HEREBY CERTIFY THIS  
DOCUMENT IS AN EXACT  
COPY OF THE RECORD OBTAINED  
FROM THE OHIO DEPARTMENT OF HEALTHJULIE B. NAGY, STATE REGISTRAR  
OFFICE OF VITAL STATISTICS  
VITALSTATS.1@STATE.OH.USOhio Department Of Health  
VITAL STATISTICS  
CERTIFICATE OF DEATH  
TYPE OR PRINT IN PERMANENT BLACK INK

REG. Dist. No. 0901		Sex Male		3. Date Of Death (Month, Day, Year) <b>May 7, 2005</b>	
Primary Reg. Dist. No. 0901		8. Date of Birth (Month, Day, Year)		7. Birthplace City, County and State or Foreign Country <b>Akron OH</b>	
Registration No. 2005-DO-109		9a. Age - Last Birthday (Years)		9b. Under One Year Months Days Hours Minutes	
1. Decedent's Name (First, Middle, Last) <b>CHARLES RICHARD FLOWERS</b>		10. Social Security Number		11. Surviving Spouse (If Wife, Give Maiden Name) <b>Sylvia Zarling</b>	
12a. Decedent's Usual Occupation (Give kind of work done during most of working life. Do not unauthorized.) <b>Electrical Engineer</b>		12b. Kind of Business/Industry <b>Electrical Co.</b>		13. Residence-State <b>OH Butler</b>	
13a. County <b>Butler</b>		13c. City, Town, Twp., or Location <b>Hamilton</b>		13d. Street and Number <b>Hamilton</b>	
13e. Inside City Limits? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>45013</b>		14. Was Decedent of Hispanic Origin? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If Yes, Specify Cuban, Mexican, Puerto Rican, etc.) <b>White</b>		15. Race - American Indian, Black, White, etc. (Specify) <b>White</b>	
16. Decedent's Education (Check only those that apply) <b>Elementary/Secondary [9-12] College [14 or 5]</b>		17. Father's Name (First, Middle, Maiden Surname) <b>Joseph Flowers</b>		18. Mother's Name (First, Middle, Maiden Surname) <b>Mary Sutton</b>	
19a. Informant's Name (Type/Print) <b>Sylvia Flowers</b>		19b. Mailing Address (Street and Number or Rural Route Number, City or Town, State, ZIP Code) <b>Hamilton, OH 45013</b>		20a. Method of Disposition <input checked="" type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Removal from State <input type="checkbox"/> Donation <input type="checkbox"/> Other (Specify) <b>St. Aloysius Cemetery</b>	
20b. Place of Disposition (Name of Cemetery, Crematory or Other Place) <b>Shandon, OH Butler Co.</b>		21a. Name of Embalmer (First, Middle, Last) <b>George R. Brown, II</b>		21b. License Number <b>6276A</b>	
22a. Signature of Funeral Director or Other Person <b>George R. Brown, II</b>		22b. License Number (or License) <b>5309</b>		23. Name and Address of Facility (Include City, State and ZIP Code) <b>Brown-Dawson Funeral Home 330 Pershing Avenue</b>	
24. Registrar's Signature <b>Tom Compton</b>		25. Date Filed (Month, Day, Year) <b>May 13, 2005</b>		26. Location City or Town, State <b>Hamilton, OH 45011</b>	
26a. Signature of Person Issuing Permit <b>George R. Brown, II</b>		26b. Permit No. <b>0901</b>		26c. Date Permit Issued <b>May 13, 2005</b>	
28a. Certifier (Check Only One) <input checked="" type="checkbox"/> Certifying Physician To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner as stated. <input type="checkbox"/> Coroner On the basis of examination and/or investigation, In my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner as stated.		28b. Time of Death <b>3:55 PM</b>		28c. Date of Death <b>May 7, 2005</b>	
28d. Was Case Referred to Coroner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		28e. Signature of Physician <b>Andrew Hear MD</b>		28f. License Number <b>350749728</b>	
28g. Date Signed (Month, Day, Year) <b>May 12, 2005</b>					
29. Name and Address of Person who Completed Cause of Death (Type/Print) <b>Andrew Hear MD 2275A Millville Ave. Hamilton, OH 45013</b>					
30. Part I. Enter the disease, injury or complication that caused the death. Do not enter the mode of death such as cardiac or respiratory arrest. Approximate Interval Between Onset and Death					
31. Immediate Cause (First disease or condition resulting in death) <b>Congestive heart failure</b>					
32. Subsequent Conditions if any, leading to the immediate cause <b>Renal failure</b>					
33. Due to (or as a Consequence of): <b>a. Due to (or as a Consequence of): b. Due to (or as a Consequence of): c. Due to (or as a Consequence of): d. Due to (or as a Consequence of):</b>					
34. Part II. Other Significant Conditions contributing to death but not resulting in the underlying cause given in Part I.					
35. Was an autopsy performed? Available Info To Completion of Cause of Death? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
32. Manner of Death <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Homicide <input type="checkbox"/> Suicide <input type="checkbox"/> Detention <input type="checkbox"/> Homeless		33a. Date of Injury (Month, Day, Year) <b>May 7, 2005</b>		33b. Time of Injury <b>M</b>	
33c. Injury at Work? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		33d. Describe How Injury Occurred			
33e. Place of Injury - At Home, Farm, Street, Factory, Office Building, etc. (Specify)					
33f. Location (Street and Number or Rural Route Number, City or Town, State)					

VERIFY

EXISTENCE OF ODH WATERMARK

OLD TO LIGHT TO VIEW

1. I HEREBY CERTIFY THIS  
DOCUMENT IS AN EXACT  
COPY OF THE RECORD ON FILE WITH  
THE OHIO DEPARTMENT OF HEALTH.

MY-509061435

*Judith B. Hugy*  
JUDITH B. HUGY, STATE REGISTRAR  
OFFICE OF VITAL STATISTICS  
WITNESS MY SIGNATURE & SEAL

PLACE OF BIRTH				STATE OF OHIO DEPARTMENT OF HEALTH DIVISION OF VITAL STATISTICS CERTIFICATE OF BIRTH			
County of <u>Butler</u>				Registration District No. <u>130</u> File No. <u>71352</u>			
Township of _____				Primary Registration District No. <u>8052</u> Registered No. <u>939</u>			
Village of _____				No. <u>26</u> <u>Stephen</u> St. _____ Ward _____ (If birth occurred in a hospital or institution, give NAME instead of street and number)			
City of <u>Hamilton</u>				If child is not yet named, make supplemental report, as directed			
Sex of Child <u>Male</u>	Twin, triplet or other? (To be answered only in event of plural births)	Number in order of birth	Legit- imate? <u>Yes</u>	Date of birth (Month) <u>08</u> (Year) <u>1927</u>			
FATHER				MOTHER			
FULL NAME <u>John E. Davis</u>		FULL MAIDEN NAME <u>Grace Kinley</u>					
RESIDENCE Including P. O. Address <u>Hamilton, O</u>		RESIDENCE Including P. O. Address <u>Hamilton, O</u>					
COLOR or RACE <u>Negro</u>	AGE AT LAST BIRTHDAY <u>24</u> (Years)	COLOR or RACE <u>Negro</u>	AGE AT LAST BIRTHDAY <u>18</u> (Years)				
BIRTHPLACE <u>Montgomery, Ala</u>	BIRTHPLACE <u>Hamilton, Ohio</u>	OCCUPATION AND INDUSTRY <u>Labored</u>	OCCUPATION AND INDUSTRY <u>Housewife</u>				
NUMBER OF CHILDREN BORN AND LIVING							
Number of children born alive to this mother, including this child (if born alive) <u>2</u>		Number of children of this mother living, including this child (if born alive) <u>2</u>					
Is child congenitally deformed? <u>No</u>							
Was Prophylactic against Ophthalmia Neonatorum used? <u>Yes</u>							
CERTIFICATE OF ATTENDING PHYSICIAN OR MIDWIFE*							
I hereby certify that I attended the birth of this child born to <u>Grace Davis</u> and that the child was <u>Alive</u> (Born Alive or Stillborn)							
*When there was no attending physician or midwife, then the father, householder, etc. should make this return. A stillborn child is one that neither breathes nor shows other evidence of life after birth.							
Given name added from a supplemental report 1927							
REGISTRAR							
(Signature) <u>Grace Davis</u>							
Date <u>Sept 7</u> 1927 Address <u>Hamilton, O</u>							
PHYSICIAN OR MIDWIFE <u>Grace V. Blenger</u>							

VALID ONLY  
WITH  
IMPRINTED  
SEAL  
DATE ISSUED:

MAY 21 2005

I HEREBY CERTIFY THAT THE ATTACHED IS A TRUE COPY OF A  
RECORD ON FILE IN THE DIVISION OF VITAL RECORDS

*Geneva G. Sparks*  
GENEVA G. SPARKS  
STATE REGISTRAR OF VITAL RECORDS

95-29917

1. FOR STATE REGISTRAR		STATE OF MARYLAND / DEPARTMENT OF HEALTH AND MENTAL HYGIENE CERTIFICATE OF DEATH				REG. NO.	
1. DECEDENT'S NAME (First, Middle, Last)		2. SEX		3. AGE (In yrs, mos, days)		4. DATE OF DEATH MONTH DAY YEAR	5. TIME OF DEATH HOUR MINUTE
HILTON B. FLOWERS		M. <input checked="" type="checkbox"/> F. <input type="checkbox"/>		89 yrs		SEPTEMBER 14 1995	A 4:45 PM
6. SOCIAL SECURITY NUMBER		7. MONTH		8. DAY		9. DATE OF BIRTH MONTH DAY YEAR	10. BIRTHPLACE (Name of Foreign Country)
[REDACTED]		1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31		1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31		[REDACTED]	Georgia
11. FACILITY NAME (If not hospital, give name and number)		12. CITY, TOWN OR LOCATION OF DEATH				13. COUNTY OF DEATH	
Suburban Hospital		Bethesda				MONTGOMERY	
14. STATE		15. COUNTY		16. CITY, TOWN OR LOCATION		17. MEDIUM CITY LIMITED 1 <input type="checkbox"/> YES 2 <input checked="" type="checkbox"/> NO	
Maryland		Montgomery		Gaithersburg		18. ZIP CODE 20878	
19. CITIZEN OF WHAT COUNTRY [REDACTED]		20. RACE - American Indian, Alaskan Native, Native Hawaiian, Native American, Asian, Black, White, etc.				U.S.A.	
21. MARRITAL STATUS 1 <input type="checkbox"/> Never Married 2 <input type="checkbox"/> Married 3 <input checked="" type="checkbox"/> Widowed 4 <input type="checkbox"/> Divorced		22. WAS DECEDENT EVER IN U.S. ARMED FORCES? 1 <input type="checkbox"/> YES 2 <input checked="" type="checkbox"/> NO IF YES, GIVE WAR OR DATES [REDACTED]		23. WAS DECEDENT OF ASIAN/PIAN (Filipino, Vietnamese, etc.) If yes, specify Cuban, Mexican, Puerto Rican, etc. 1 <input type="checkbox"/> YES 2 <input checked="" type="checkbox"/> NO		24. RACE - American Indian, Alaskan Native, Native Hawaiian, Native American, Asian, Black, White, etc.	
25. DECEASED'S EDUCATION (Specify only highest grade completed)		26. DECEDENT'S OCCUPATION (Name and nature of occupation, giving name of employer if any)		27. HIS KIND OF BUSINESS/INDUSTRY		28. (Ohio) Hamilton School System	
Elementary/Secondary (0-12) 5th		Custodian		29. MOTHER'S NAME (First, Middle, Maiden Surname) Charles Flowers		30. MOTHER'S NAME (First, Middle, Maiden Surname) Ann Cozzie	
31. INFORMANT'S NAME (Specify) Delbert Flowers (Son)		32. PLACE AND DATE OF DISPOSITION (Name of Cemetery)		33. DATE		34. PLACE - City or Town, State Gaithersburg, MD	
35. METHOD OF DISPOSITION 1 <input type="checkbox"/> Burial 2 <input type="checkbox"/> Cremation 3 <input checked="" type="checkbox"/> Buried from casket 4 <input type="checkbox"/> Burial at sea 5 <input type="checkbox"/> Other (Specify)		36. PLACE AND DATE OF DISPOSITION (Name of Cemetery)		37. DATE		38. PLACE - City or Town, State Hamilton, OH	
39. INFORMATION FERNERAL SERVICE LICENSE <i>Doug R. Brewster</i>		40. NAME AND ADDRESS OF FUNERAL HOME SNOWDEN FUNERAL HOME, P.A. ROCKVILLE, MD 20850		41. APPROXIMATE DEATH BETWEEN ONSET AND DEATH 2 mos		42. APPROXIMATE DEATH BETWEEN ONSET AND DEATH 3 mos	
43. PART I. List the conditions or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest. Should be short, blunt, and only one cause on each line.		44. DUE TO (OR AS A CONSEQUENCE OF) <i>aspiration of rumenoma</i>		45. DUE TO (OR AS A CONSEQUENCE OF) <i>aspiration of rumenoma</i>		46. APPROXIMATE DEATH BETWEEN ONSET AND DEATH 5 mos	
47. Sequential list conditions, if any, leading to immediate death. Enter UNDERLYING CAUSE (Disease or injury that initiated events resulting in death) LAST		48. DUE TO (OR AS A CONSEQUENCE OF) <i>aspiration of rumenoma</i>		49. DUE TO (OR AS A CONSEQUENCE OF) <i>aspiration of rumenoma</i>		50. APPROXIMATE DEATH BETWEEN ONSET AND DEATH 5 mos	
51. PART II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I. <i>IP mitral valve replacement</i>		52. WAS AN AUTOPSY PERFORMED? 1 <input type="checkbox"/> YES 2 <input checked="" type="checkbox"/> NO		53. WERE AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH? 1 <input type="checkbox"/> YES 2 <input checked="" type="checkbox"/> NO			
54. WAS CASE REFERRED TO MEDICAL EXAMINER? 1 <input type="checkbox"/> YES 2 <input checked="" type="checkbox"/> NO		55. PLACE OF DEATH (Check only one) 1 <input type="checkbox"/> Hospital 2 <input type="checkbox"/> Ambulance 3 <input type="checkbox"/> DOA 4 <input type="checkbox"/> Nursing Home 5 <input type="checkbox"/> Residence 6 <input type="checkbox"/> Other (Specify)		56. DATE OF INJURY MONTH DAY YEAR		57. TIME OF INJURY	
58. MANNER OF DEATH 1 <input type="checkbox"/> Homicide 2 <input type="checkbox"/> Suicide 3 <input type="checkbox"/> Accident 4 <input type="checkbox"/> Disease 5 <input type="checkbox"/> Pending Investigation 6 <input type="checkbox"/> Could not be determined		59. DATE OF INJURY MONTH DAY YEAR		60. INJURY AT WORK? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No		61. DESCRIBE HOW INJURY OCCURRED	
62. PLACE OF INJURY - All indoor, home, office, garage, patio, etc. Building, etc. (Specify)		63. LOCATION (Street and Number or Rural Route Number, City or Town, State)					
64. CERTIFY 1 <input type="checkbox"/> CERTIFYING PHYSICIAN: To the best of my knowledge, death occurred at the time, date and place, and due to the cause(s) and manner as stated. 2 <input type="checkbox"/> MEDICAL EXAMINER: On the basis of examination and/or investigation, to my knowledge, death occurred at the time, date and place, and due to the cause(s) and manner as stated.		65. SIGNATURE AND TITLE OF CERTIFYING DOCTOR <i>Dr. Peter L. Davis MD</i>		66. LICENSE NUMBER D 38443		67. DATE SIGNED Month, Day, Year Sep 14, 1995	
68. NAME AND ADDRESS OF PERSON WHO COMPLETED FORM OF DEATH (Form 27) (See Part II) <i>Alan R. Pollack MD 809 University M-11 Rd. Rockville, MD 20851</i>							
69. DATE FILED (Month, Day, Year) SEP 18 1995		70. SIGNATURE OF CLERK <i>John Stevenson-Robert</i>					

2010-08-19 1:41  
C000197158

# BUTLER COUNTY SHERIFF'S OFFICE

RETURN OF CRIMINAL SUBPOENA  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO

IMAGED

SHERIFF  
RICHARD K. JONES

STATE OF OHIO

27

CASE NUMBER: CR 1983 12 0614

vs.

VON CLARK DAVIS

DATE ISSUED: August 19, 2009

COURT DATE: 09/08/09 THROUGH 09/11/09

WITNESS INFORMATION:

Name: ELLIOT BUTCH DAVIS

Address: [REDACTED]

HAMILTON, OH 45011

10 SEP 2009  
INDY CARPENTER  
BUTLER COUNTY  
CLERK OF COURT

SHERIFF'S INSTRUCTIONS: This Subpoena is required to be personally served upon the party named above.

DOCUMENTED ATTEMPTS AT SERVICE:

Date: AUG 21 2009 /1020 1478  
Date: \_\_\_\_\_  
Date: \_\_\_\_\_

PERSONAL SERVICE:

Signature: \_\_\_\_\_

PERFECTED SERVICE:

Date: \_\_\_\_\_ Time: \_\_\_\_\_

ALTERNATE SUBJECT SERVED:

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Relationship: \_\_\_\_\_

FAILURE OF SERVICE:

Reason for failure: \_\_\_\_\_

Bad Address/ Does Not Exist.

SHERIFF'S FEES:

Mileage: 2.00  
Return of Service: 6.00  
TOTAL FEES: 8.00

CIVIL DIVISION	
DATA ENTRY OF FEES	
Initial:	BM
Date:	SEP 02 2009

Deputy: \_\_\_\_\_  
Badge Number: \_\_\_\_\_

Shannon Cook #1478

File this document with Butler County Clerk of Courts

CINDY CARPENTER



CLERK OF COURTS

**WITNESS:**

**ELLiot BUTCH DAVIS**

**HAMILTON, OH 45011**

Date: August 19, 2009

Case No.: CR 1983 12 0614

STATE OF OHIO VS VON CLARK DAVIS

**SUBPOENA SERVED BY BUTLER CO. SHERIFF  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

TYPE OF SUBPOENA: CR

To the above named Witness: You are hereby commanded to appear in the Common Pleas Court of Butler County Ohio at the Government Services Center, 315 High Street, 3<sup>RD</sup> Floor, Hamilton, Ohio 45011.

DATE: 09/08/09 THROUGH 09/11/09

TIME: 9:00AM UNTIL  
RELEASED BY ATTORNEY

JUDGE: NASTOFF

You are required to attend and give testimony on behalf of the plaintiff/defendant in the above captioned case under penalty of law.

To apply for payment for your services as a witness after testimony, bring this subpoena to the office of the Butler County Clerk of Courts.

CINDY CARPENTER  
Butler County Clerk of Courts

**REQUESTING ATTORNEY:**

NAME: MELYNDA COOK-REICH  
ADDRESS: 1501 FIRST AVE  
CITY & STATE: MIDDLETOWN OH  
ZIP: 45044  
PHONE: (513)424-1823 FAX (513)424-3135

By: KATHY HERALD  
Deputy Clerk

**WITNESS CERTIFICATION**

I attest that I appeared to give testimony in the above captioned case. I was present in the Court of Common Pleas for \_\_\_\_\_ days. As an out of county witness, I traveled \_\_\_\_\_ miles from the city of \_\_\_\_\_ in the State of \_\_\_\_\_.

SIGNATURE: \_\_\_\_\_  
Witness  
C000197158

GOVERNMENT SERVICES CENTER • 315 HIGH STREET • SUITE 550 • HAMILTON, OHIO 45011-6016

BUTLER COUNTY CLERK OF COURTS  
[www.butlercountyclerk.org](http://www.butlercountyclerk.org)

IMAGED

CINDY CARPENTER



CLERK OF COURTS

**PROCESS SERVER'S SUBPOENA COPY: PROSECUTOR'S OFFICE**

Date: August 28, 2009

Case No.: CR 1983 12 0614

STATE OF OHIO VS VON CLARK DAVIS

**SUBPOENA SERVED BY PROCESS SERVER  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO**

To the Special Process Server: You are directed to serve the attached subpoena issued by the Butler County Court of Common Pleas.

Please serve upon the following party:

LISA LINK

[REDACTED]  
CINTI, OH 45239

CINDY CARPENTER  
Butler County Clerk of Courts

By:SHONDA ERTEL  
Deputy Clerk

*@ 9:30 AM* EXECUTION OF SERVICE BY SPECIAL PROCESS SERVER

1. This subpoena was served on SEPT. 2, 09, 2009. Mileage \_\_\_\_\_  
2. This subpoena was unable to be served for the following reasons: \_\_\_\_\_

*[Handwritten signature of Cindy Carpenter over the lines]*

SIGNATURE: CINDY CARPENTER TOTAL FEES \$ \_\_\_\_\_  
Process Server \_\_\_\_\_  
Address: \_\_\_\_\_  
C000070887

*2009 SEP-2 PM 4:08*

GOVERNMENT SERVICES CENTER • 315 HIGH STREET • SUITE 550 • HAMILTON, OHIO 45011-6016

*Q371*  
BUTLER COUNTY CLERK OF COURTS  
[www.butlercountyclerk.org](http://www.butlercountyclerk.org)



IMAGED

## CINDY CARPENTER

## CLERK OF COURTS

*PROCESS SERVER'S SUBPOENA COPY: PROSECUTOR'S OFFICE*

Date: August 28, 2009

Case No. : CR 1983 12 0614  
STATE OF OHIO VS VON CLARK DAVIS

SUBPOENA SERVED BY PROCESS SERVER  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO

To the Special Process Server: You are directed to serve the attached subpoena issued by the Butler County Court of Common Pleas.

Please serve upon the following party:

Dr JOSEPH H BRANDABUR  
BUTLER COUNTY CORONER'S OFFICE  
200 N "F" STREET  
HAMILTON, OH 45011

**CINDY CARPENTER**  
Butler County Clerk of Courts

By:SHONDA ERTEL  
Deputy Clerk

#### -EXECUTION OF SERVICE BY SPECIAL PROCESS SERVER

1. This subpoena was served on Sept. 2, 2009, 2009.  
2. This subpoena was unable to be served for the following reasons:

## Mileage

Return and Service \_\_\_\_\_

SIGNATURE:  
Process Server  
Address: \_\_\_\_\_  
C000070888

**TOTAL FEES**      \$

GOVERNMENT SERVICES CENTER • 315 HIGH STREET • SUITE 550 • HAMILTON, OHIO 45011-6016

**BUTLER COUNTY CLERK OF COURTS**  
[www.butlercountyclerk.org](http://www.butlercountyclerk.org)

CINDY CARPENTER



IMAGED

## CLERK OF COURTS

**PROCESS SERVER'S SUBPOENA COPY: PROSECUTOR'S OFFICE**

Date: August 28, 2009

Case No. : CR 1983 12 0614  
STATE OF OHIO VS VON CLARK DAVIS

SUBPOENA SERVED BY PROCESS SERVER  
COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO

To the Special Process Server: You are directed to serve the attached subpoena issued by the Butler County Court of Common Pleas.

Please serve upon the following party:

CHARLES R FURMON  
[REDACTED]  
HAMILTON, OH 45013

**CINDY CARPENTER**  
Butler County Clerk of Courts

By:SHONDA ERTEL  
Deputy Clerk

1. This subpoena was served on Sept. 2, 01. Mileage \_\_\_\_\_  
2. This subpoena was unable to be served for the following reasons:  
\_\_\_\_\_  
Return and Service \_\_\_\_\_

SIGNATURE: *James Smith* TOTAL FEES \$ \_\_\_\_\_  
Process Server  
Address: \_\_\_\_\_  
C000070886  
NOTARY PUBLIC  
CLERK OF COURTS  
SULLIVAN COUNTY

GOVERNMENT SERVICES CENTER • 315 HIGH STREET • SUITE 550 • HAMILTON, OHIO 45011-6016

BUTLER COUNTY CLERK OF COURTS  
[www.butlercountyclerk.org](http://www.butlercountyclerk.org)